

4910/4920 STRATHMORE
PRELIMINARY PLAN AMENDMENT 12022016A
SITE PLAN AMENDMENT 82022022A
FOREST CONSERVATION PLAN F20240120



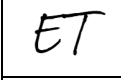

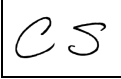
The Applicant requests approval to remove the previously approved residential care facility; add eight detached houses and four townhouses (total of 125 dwelling units with 17 detached houses and 108 townhouses); relocate 15 of the previously approved townhouses from the west side of the Site to the east side and make associated lot layout adjustments; and modify previously approved open spaces.

Completed: 1-5-2024
Nos. 12022016A, 82022022A,
F20240120

MCPB
Item No.
1-18-2024

Montgomery County
Planning Board
2425 Reedie Drive, Floor 14
Wheaton, MD 20902

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LOCATION/ADDRESS

4910-4920 Strathmore Avenue, Kensington, MD

MASTER PLAN

1992 North Bethesda/Garrett Park Master Plan

ZONE

CRNF-0.75, C-0.25 R-0.75 H-50

PROPERTY SIZE

15.35 acres (Site/Preliminary Plan)
39.46 (Forest Conservation Plan)

APPLICANT

SAH Homes Associates, LLC, c/o
EYA Development LLC

ACCEPTANCE DATE

September 20, 2023

REVIEW BASIS

Chapters 22A, 50, 59

Summary:

- Staff recommends approval with conditions of the Preliminary Plan Amendment, Site Plan Amendment (including Floating Zone Plan Amendment), and Forest Conservation Plan.
- On June 21, 2022, the County Council approved Local Map Amendment No. H-143 to rezone the site from R-60 to CRNF-0.75 C-0.25 R-0.75 H-50' and allow up to 125 dwelling units and a 145-bed residential care facility.
- By resolution dated January 5, 2023, the Planning Board approved Preliminary Plan 120220160 and Site Plan 820220220 for 113 dwelling units (9 detached houses and 104 townhouses) and a 145-bed residential care facility.
- The Site Plan Amendment includes a minor amendment to the Floating Zone Plan per Section 59-7.2.1.1.2.
- The Amendment Applications add two MPDUs, eliminate an access point from Strathmore Avenue, add 5,000 square feet of open space, and reduce the number of trips generated by the proposed Project.
- Staff received phone call inquiries from one community member, discussed below.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN 12022016A

Staff recommends approval with conditions of the Preliminary Plan Amendment to remove the previously approved residential care facility; add eight detached houses and four townhouses (total of 125 dwelling units with 17 detached houses and 108 townhouses); relocate 15 of the previously approved townhouses from the west side of the Site to the east side and make associated lot layout adjustments. All site development elements shown on the latest electronic version of Preliminary Plan Amendment No. 12022016A as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions, which restate and supersede all prior conditions of Preliminary Plan approval¹.

GENERAL APPROVAL

1. This Preliminary Plan is limited to 400,000 square feet of residential uses for 125 buildable lots (17 detached houses and 108 townhouses) and parcels for private roads, alleys, and open space.

VALIDITY PERIODS

2. The Adequate Public Facilities ("APF") review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).
3. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and prior to the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

OUTSIDE AGENCIES

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated November 28, 2023 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations provided in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

¹ For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor (s) in interest to the terms of this approval.

5. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration ("MDOT SHA") in its letter dated November 28, 2022 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations provided in the letter, which may be amended by MDOT SHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
6. Before the issuance of access permits, the Applicant must satisfy the MDOT SHA requirements for access and improvements.
7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS")- Water Resources Section in its stormwater management concept letter dated November 17, 2023 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations provided in the letter, which may be amended by MCDPS - Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its letter dated January 2, 2024 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations provided in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
9. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("DHCA"), in its letter dated November 20, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations provided in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

LOCAL MAP AMENDMENT (LMA) AND SITE PLAN APPROVAL

10. The Applicant must comply with the conditions of County Council Resolution No. 19-1308 approving Local Map Amendment No. H-143, as may be amended.
11. Before clearing or grading, except that associated with removal of the existing building on the Property, or before recording a plat for the Subject Property, the Applicant must receive Staff certification of a Planning Board approved site plan. The number and location of site elements, including but not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined through site plan review and approval.
12. If an approved site plan or site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan or site plan amendment.

TRANSPORTATION

Frontage Improvements on Existing Roads

13. Before issuance of the first above grade building permit, the Applicant must satisfy all necessary requirements of MDOT SHA (i.e. apply for the roadway improvement permit, obtain agency design approval, and post the bond for the project cost) to ensure construction of a ten-foot wide sidepath along the Property frontage on Strathmore Avenue.
14. Before issuance of the use and occupancy certificate or Final Inspection, whichever is relevant, for the final dwelling unit on the Site, the Applicant must install a new traffic signal at the Center Site Driveway with Strathmore Avenue. This includes installing a new protected pedestrian crossing and high visibility crosswalk, associated with the new traffic signal, at the Center Site Driveway with Strathmore Avenue (north-south crossing) for approximately 35 feet in length.

Off-Site Improvements / LATR

15. Before issuance of the first above grade building permit, the Applicant must satisfy all necessary requirements of MDOT SHA (i.e. apply for the roadway improvement permit, and post the bond for the project cost) to ensure construction of the following LATR off-site improvements:
 - a) Upgrade the existing curb ramp to meet ADA design standards at the Strathmore Avenue and the Center Site Driveway (north-south crossing), north side.
 - b) At the intersection of Strathmore Avenue and Stillwater Avenue, construct a north leg continental crosswalk and three ADA-compliant curb ramps on the north side of Strathmore Avenue.
 - c) Install five (5) new streetlights along the south side of Strathmore Avenue from the eastern Site boundary to the eastern LATR study area boundary.
16. Within 12 months of the issuance of the Planning Board resolution, MCDOT will determine if the Applicant must construct an approximately ten-foot-wide sidepath with a landscaped street buffer along the south side of Strathmore Avenue from the eastern Site boundary to the existing sidewalk east of Flanders Avenue (LATR off-site improvement), or make a payment to MCDOT equal to the cost of the sidepath's design, permit, construction, and relocation of utilities, if any (excluding any costs associated with right-of-way acquisition). The payment must be inflated based on the Federal Highway Administration's National Highway Construction Cost Index from the mailing date of the Planning Board resolution to the date of application for the first above-grade building permit or right-of-way permit (whichever comes first).
17. Before issuance of the final use and occupancy certificate or Final Inspection, whichever is relevant, the Applicant must construct the LATR improvements or make the alternate payment (if needed) listed in Conditions No. 15 and 16.
18. If, at the time the Applicant submits for permits to construct one of the required LATR Off-Site Improvements, the improvement is no longer necessary or desirable, because: i) it has been constructed or is under construction by another applicant or as part of a capital improvement project by a government agency, or, ii) the applicable master plan has

changed and no longer requires or suggests the improvement, or iii) the necessary right-of-way has not been obtained, the Applicant can propose an alternative LATR Off-Site Improvement from the priority list of improvements provided in the subject Staff Report that is of similar value, and this alternative improvement, if reviewed and approved by Staff, can be substituted and shown on a revised Certified Site Plan.

Private Roads

19. The Applicant must provide Private Roads and alleys currently identified as Academy Park Drive , Dulcet Drive West, Dulcet Drive East, and Chamber Street , and Alleys 1-6, including any sidewalks, bikeways, storm drainage facilities, street trees, streetlights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the "Private Roads"), subject to the following conditions:
- a) The record plat must show the Private Roads in a separate parcel.
 - b) The Private Roads must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions as required by the Montgomery County Code with regard to private roads set forth at § 50-4.3.E et seq. The Covenant includes, but is not limited to the following requirements/conditions:
 - i. The Applicant, at its expense, shall design, construct, and maintain the Private Roads.
 - ii. The Applicant, at its sole cost and expense, shall properly and continually maintain (including ordinary and capital maintenance and removal of snow, ice, litter, and other obstructions and hazards as soon as conditions reasonably allow), repair, and replace any portion of the Private Roads and all improvements located within the Private Roads, in good condition and repair for safe use and operation of the Private Roads. The Applicant must maintain a commercially reasonable budget (operating and capital, as applicable) to address both short-term and long-term maintenance, and reserves for capital repairs. The Applicant must provide certification of the reserves to the Planning Board or its Staff every two (2) years (or every five (5) years in the event there are no below-ground parking structures in the Private Roads). The reserves must be adequate to cover the costs of needed repairs.
 - iii. The Applicant must post and retain signage to notify the public that the Private Roads are not publicly maintained and to provide contact information to handle complaints, concerns or questions regarding the Private Roads.
 - c) Before issuance of the first above grade building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Roads have been designed and the applicable building permits will provide for construction in accordance with

the paving detail and cross-section specifications required by the Montgomery County Road Code (as modified with 5-foot-wide sidewalks), and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.

20. Before any plat is recorded for Academy Park Drive (also shown as Parcel T in the Preliminary Plan Amendment), the private road must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions as required by the Montgomery County Code with regard to private roads set forth at § 50-4.3.E et seq .

Record Plats

21. There shall be no clearing or grading of the site prior to recordation of plat(s), with the exception of clearing and grading associated with the removal of the existing building on the subject Property.
22. The record plat must show necessary easements.
23. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
24. The record plat must reflect all areas under common ownership.
25. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Book 28045 Page 578 ("Covenant").

Certified Preliminary Plan

26. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
27. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a) Show resolutions and approval letters on the certified set.
 - b) Provide cost estimates for the LATR off-site mitigation alternative project list.
 - c) Provide a cross-section of Dulcet Drive east of Academy Park Drive.

SITE PLAN AMENDMENT NO. 82022022A

Staff recommends approval of Site Plan Amendment No. 82022022A, to remove the previously approved residential care facility; add eight detached houses and four townhouses (total of 125 dwelling units with 17 detached houses and 108 townhouses); relocate 15 of the previously approved townhouses from the west side of the Site to the east side and make associated lot layout adjustments; and modify previously approved open spaces. The development must comply with the binding elements of LMA No. H-143 as listed in County Council Resolution No. 19-1308, and conditions of approval for Preliminary Plan No. 120220160, as amended. All site development elements shown on the latest electronic version of the Site Plan, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions.² The following conditions supersede all previous conditions of site plan approval.

DENSITY, HEIGHT & HOUSING

1. Density

This Site Plan is limited to a maximum of 400,000 square feet of residential development on the Subject Property for up to 17 detached houses and 108 townhouses.

2. Height

The development is limited to a maximum height of 50 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

3. Moderately Priced Dwelling Units (MPDUs)

- a) The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated November 20, 2023 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.
- b) The development must provide fifteen (15) percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan.
- c) Before issuance of any building permit for any of the residential unit(s), the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

² For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor (s) in interest to the terms of this approval.

OPEN SPACE, FACILITIES AND AMENITIES

4. Common Open Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 75,000 square feet of common open space on-site.
- b) Before issuance of the use and occupancy certificate, or Final Inspection, whichever is relevant, for the final dwelling unit located west of Academy Park Drive, all open spaces located west of Academy Park Drive, including the natural surface trail, must be substantially completed. All plantings west of Academy Park Drive must be installed within one growing season of the final inspection date.
- c) Before issuance of the use and occupancy certificate, or Final Inspection, whichever is relevant, for the final dwelling unit located east of Academy Park Drive, all open space amenities located east of Academy Park Drive must be substantially completed. All plantings east of Academy Park Drive must be installed within one growing season of the final inspection date.
- d) The Applicant must install all new utilities underground within the Site.

5. Recreation Facilities

Before issuance of the use and occupancy certificate, or Final Inspection, whichever is relevant, for the final dwelling unit on the Site, the Applicant must provide all of the required recreation facilities as shown on the Certified Site Plan (CSP). The CSP must include an exhibit delineating location and detail of recreation facilities, where appropriate, in a manner that is clear and corresponds to the posted surety and maintenance agreement.

6. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to landscaping, seating, tables, play equipment, and trash receptacles.

ENVIRONMENT

7. Noise Attenuation

- a) Before issuance of the first above grade building permit for the detached dwelling units along Strathmore Avenue, the Applicant/developer/builder must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that the building shell for residential dwelling units affected by exterior noise levels projected at or above 65 dBA Ldn, fronting Strathmore Avenue will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.

- b) Before issuance of any Use and Occupancy Certificate or Final Inspection, whichever is relevant, for any of the noise-impacted units, a professional engineer must certify to the Planning Department and the Department of Permitting Services that the noise-impacted units have been constructed in accordance with the recommendations of the certified acoustical engineer's recommendations in the noise study.
- c) If any changes occur to the Site Plan which affect the validity of the noise analysis dated August 3, 2023, acoustical certifications, and/or noise attenuation features, a new noise analysis will be required to reflect the changes and new noise attenuation features may be required.
- d) For all noise-impacted single-family residential dwelling units, the Applicant/developer/builder must disclose in writing to all prospective purchasers that those homes are impacted by transportation noise. Such notification must be included in any noise impacted sales contracts, and in Homeowner Association documents. A copy of the notification must be provided to the Planning Department and DPS prior to issuance of a use and occupancy certificate or final inspection, whichever is relevant, for any noise impacted residential unit.

TRANSPORTATION & CIRCULATION

8. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated September 26, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) The Applicant must provide the following master planned pedestrian and bicycle facilities onsite, as shown on the Certified Site Plan:
 - i. Academy Park Drive, Chamber Street, and Dulcet Drive (both sides of the street): five-foot-wide sidewalks with five-foot-wide buffers from traffic.
 - ii. Site frontage on Strathmore Avenue (south side): ten-foot-wide sidepath with six-foot-wide buffer from traffic.
 - iii. Natural Surface Trail shown west and south of Chamber Street within the stream valley buffer.

9. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated January 2, 2024, and hereby incorporates them as

conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

SITE PLAN

10. Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A-4.02 through A-4.05, of the submitted architectural drawings, as determined by M-NCPPC Staff.
- b) The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.

11. Lighting

- a) Before Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on all fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by street lights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan, except streetlights within the right-of-way.

12. Site Plan Surety and Maintenance Agreement

- a) Before issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, whichever comes first, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- i. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- ii. The cost estimate must include applicable Site Plan elements, including, but not limited to: plant material, on-site lighting, recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and street lights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- iii. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

13. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved before the approval of the Certified Site Plan.

14. Homeowners Association (HOA)

At the time of recording, the HOA established for the new homes must include language in the Declaration of Covenants, Conditions, and Restrictions regarding the prohibition of driveway parking that extends into the private street or sidewalk. A provision shall include the prohibition of the HOA's removal of this restriction.

15. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, and Site Plan resolution on the approval or cover sheet(s).
- b) Add the following notes:
 - i. "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
 - ii. "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
 - iii. "The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must

attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times.”

- c) Include approved Fire and Rescue Access Plan.
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) Provide a cross-section of Dulcet Drive east of Academy Park Drive.
- g) Provide an exhibit identifying all homes with high visibility side elevations.
- h) Provide one additional street tree to the east of Lot 20 and two additional street trees to the north of Lot 9.
- i) On Sheet BLL-501: remove the red bubble and change the amendment list font color from red to black, remove the legend and patterns, and include a number next to each of the proposed recreation facilities that corresponds with the numbered location(s) of each facility on the site plan.

FOREST CONSERVATION PLAN F20240120

Staff recommends approval of Forest Conservation Plan No. F20240120. All site development elements shown on the latest electronic version of the Forest Conservation Plan, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions.

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. Before certified Final Forest Conservation Plan (FFCP), the Applicant must make the following technical corrections to the plans:
 - a) In the Forest Conservation Summary table, Correct the Proposed Forest Planting (Category I Easement) to 2.17 Acres; correct the Total Credits to 3.25 Acres, and correct the Remaining Requirement (or Excess Planting Provided) to -0.30 Acres.
 - b) In the Afforestation Summary table, correct the Total Reforestation/Afforestation to 3.25 acres.
 - c) In the Proposed Replacement Trees table, correct the Total Mitigation Inches to 108.
3. Before certified FFCP, the Applicant must add a planting plan showing numbers of trees and shrubs by species to be planted in the Category I and Category II Easement areas to fulfill the afforestation/reforestation planting requirement.
4. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
5. Before start of any clearing or grading not associated with the demolition of the existing building on the property, or new construction for this development Application, whichever comes first, the Applicant must record the Category I and II Conservation Easements over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I or II Conservation Easements must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed.
6. Before start of any clearing or grading not associated with the demolition of the existing building on the property, or new construction for this development Application, whichever comes first, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the 3.00 acres of new forest planting and for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
7. Before initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install permanent conservation easement signage

and fencing along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.

8. Before start of any clearing or grading not associated with the demolition of the existing building on the property, or new construction for this development Application, whichever comes first, the Applicant must execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff. All proposed measures should be chosen with consideration of the proximity to the on-site stream and wetlands and the sensitive nature of this watershed. The use of herbicides should be avoided where possible.
9. The Applicant must install the Afforestation/Reforestation plantings for Planting Areas outside of the limits of disturbance (“LOD”) as shown on the approved FCP, within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff. The warranty period for these plantings will commence upon M-NCPPC inspector’s approval and acceptance.
10. The Applicant must install the Afforestation/Reforestation plantings for Planting Areas inside the LOD, as shown on the approved FCP, in the first planting season following stabilization of the applicable disturbed area. The warranty period for these plantings will commence upon M-NCPPC inspector’s approval and acceptance.
11. The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling 108 caliper inches as shown on the approved FCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
12. The Applicant must install the mitigation tree plantings, as shown on the approved FCP, in the first planting season following stabilization of the applicable disturbed area or completion of the nearest associated building or open space area, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
13. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the certified Final Forest Conservation Plan.

SECTION 2: SITE DESCRIPTION

VICINITY

The Site is located at 4910-4920 Strathmore Avenue (MD 547), which is approximately 1,500 feet east of Rockville Pike (MD 355) and is adjacent to both the Strathmore Music Hall and the Academy of the Holy Cross (“Academy”) and Church, as shown in Figure 1. Directly to the west of the Site is a stream valley and the Symphony Park townhouse development.

The Site is located near established residential neighborhoods and associated amenities, such as the Garrett Park Elementary School, Garrett Park Estates Local Park, Druid Drive Neighborhood Park, and Garrett Park – Waverly Park. The Grosvenor-Strathmore Metro Station is located approximately 0.6 miles southwest of the Site.

The surrounding neighborhood is a mix of residential and institutional uses. A neighborhood of detached houses confronts the Site to the north, across Strathmore Avenue, and a townhouse community abuts the Site to the west. Institutional uses abut the Site to the south and east.

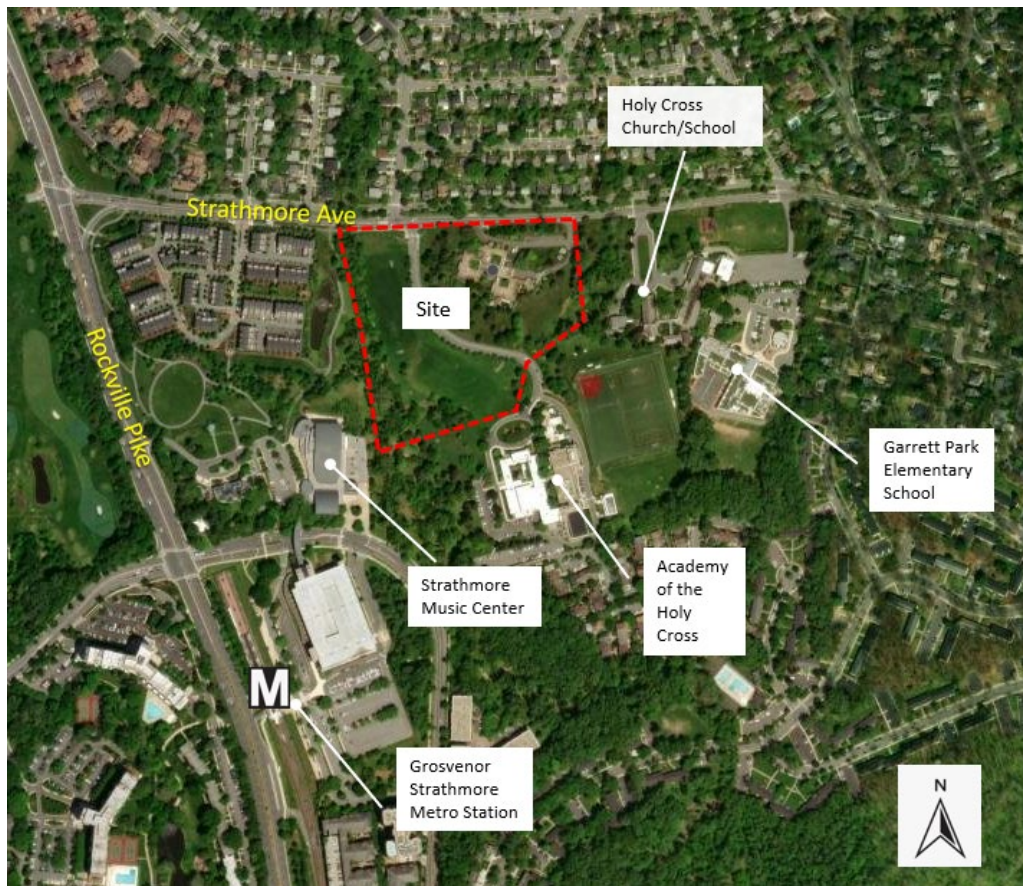


Figure 1 – Vicinity Map (Site outlined in red dashed line)

PROPERTY DESCRIPTION

The Property is improved with the vacant Sisters of The Holy Cross, Inc. St. Angela's Hall (4910 Strathmore Avenue; Parcel N875, Parcel A, Garrett Park-Holy Cross Convent, as shown on Plat No. 9347) and the Academy of The Holy Cross, Inc. (4920 Strathmore Avenue; Parcel No. N045, Parcel B, Garrett Park Academy of the Holy Cross, as shown on Plat No. 20824). The portion of the Property subject to the Preliminary and Site Plan Amendment applications, Parcel A and part of Parcel B, as outlined in the dashed yellow line in Figure 2 below, comprises approximately 15.35 acres ("Site.") The entire Property, outlined in dashed red and including all of Parcel B, is subject to the Forest Conservation Plan ("Property.")

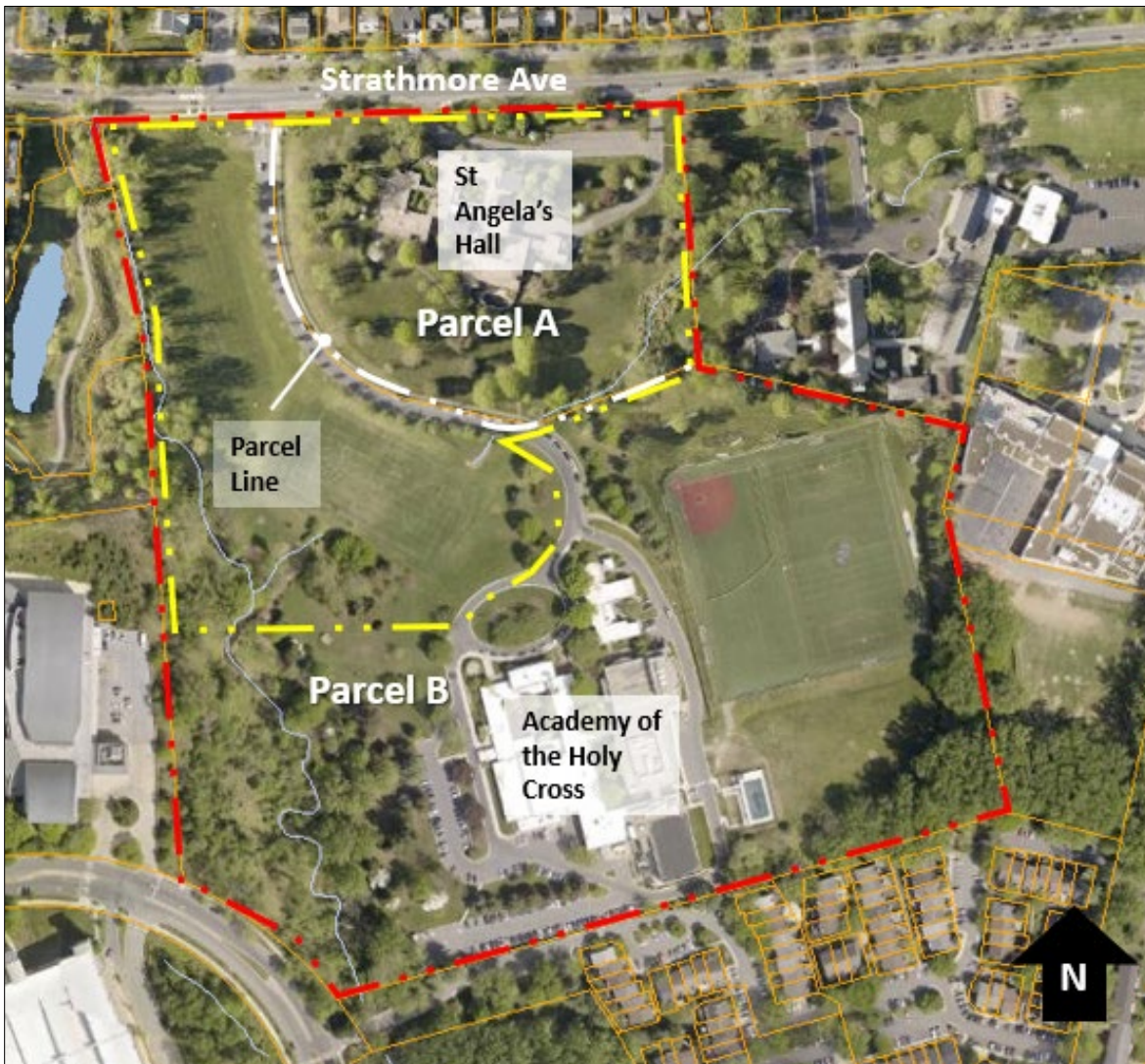


Figure 2: Property/Parcels A and B (outlined in red) and Site (outlined in yellow)

Parcel A contains the vacant St. Angela's Hall (approximately 38,000 square feet) with two driveway entrances on Strathmore Avenue, surface parking, outdoor amenity spaces, pedestrian paths, and open lawn areas. The building and driveways for the existing St. Angela's Hall are located on the high point of the site and slope down to a nearby tributary of Rock Creek and associated wetlands along the western, southern, and eastern sides of the Site. The portion of Parcel B included within the Site is improved with a driveway and two athletic fields associated with the Academy of the Holy Cross, sloped lawns, and a stream along the western border of the Site. The Site contains forest, specimen trees, and stream valley buffers.

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

NATURAL RESOURCE INVENTORY/FOREST STAND DELINEATION NO. 420211410

A Natural Resources Inventory/Forest Stand Delineation (No. 420211410) was approved on July 27, 2021. A tributary of Rock Creek runs along the western boundary of the Property. The stream valley also contains areas of wetlands and 100-year floodplain, as well as some hydraulically-adjacent steep slopes. There are approximately 11.49 acres of environmental buffers and 4.06 acres of forest onsite. The Property also contains a number of specimen trees.

LOCAL MAP AMENDMENT NO. H-143

The County Council, acting as the District Council, approved the Local Map Amendment Application (LMA No. H-143) to rezone the Site from R-60 (Residential Detached) to CRNF-0.75 C-0.25 R-0.75 H-50', (Commercial Residential Neighborhood-Floating) on June 21, 2022, as opined in County Council Resolution No. 19-1308. The rezoning and the associated Floating Zone Plan (Figure 3) envisioned future development on the Site that would relocate the existing entry drive, replace the religious institution use on Parcel A with a 145-bed residential care facility and locate up to 10 detached and 115 attached townhouse units on the area currently occupied by athletic fields and landscaped lawns, for a total of 125 dwelling units (including a minimum of 15% MPDUs). The Floating Zone Plan proposed that the western portion of the Site would be developed with the single-family residential uses and the eastern portion with the residential care facility.

PRELIMINARY PLAN NO. 120220160 & SITE PLAN NO. 820220220

On January 5, 2023, the Planning Board approved Preliminary Plan 120220160 (MCPB No. 22-118) and Site Plan 820220220 (MCPB. No. 22-119) for 113 dwelling units (9 detached houses and 104 townhouses) and a 145-bed residential care facility (Figure 4). The approvals included three vehicular access points from Strathmore Avenue and a network of private roads and alleys to serve the proposed uses. The Site Plan included common open space for the townhouses and public open space associated with the residential care facility.

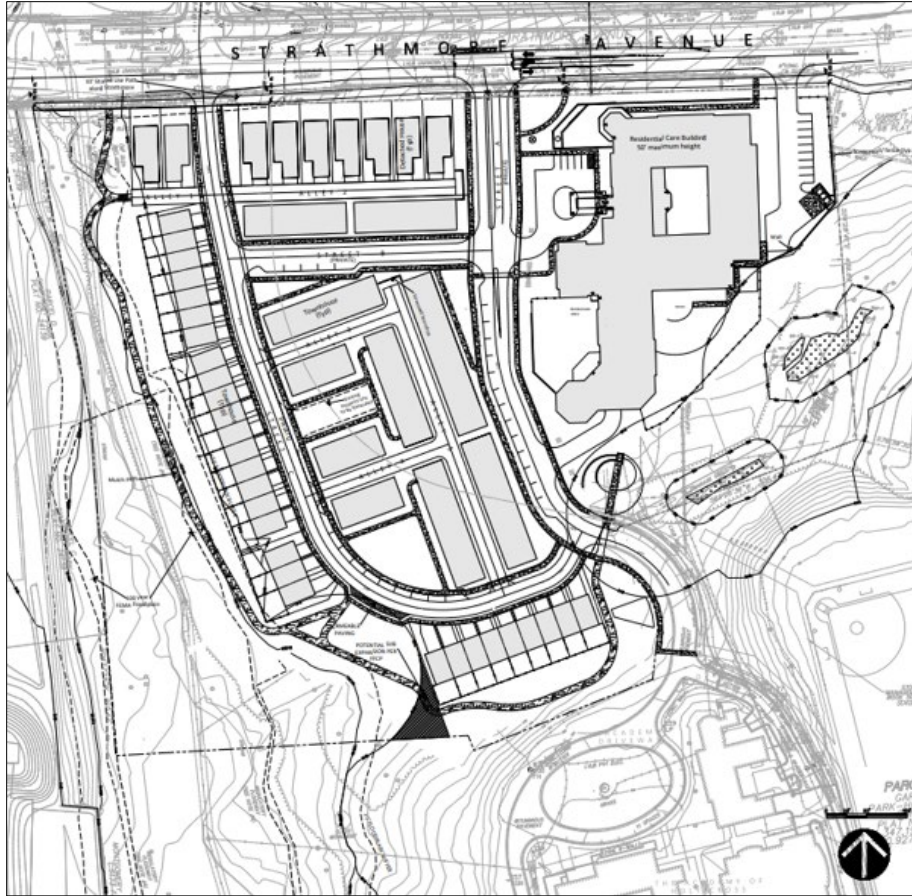


Figure 3: Floating Zone Plan

PROPOSAL

Homes Associates, LLC, c/o EYA Development LLC (“Applicant”) has determined that development of the previously approved residential care facility is infeasible due to market conditions that have reduced the ability to finance additional residential care facilities in the area and that an entirely single-family development is the most viable option for the Site. The Applicant therefore proposes to remove the previously approved residential care facility and increase the number of single-family dwelling units from 113 to 125, the maximum number approved by the County Council with the rezoning of the Site under LMA No. H-143. The Applicant requests that the Planning Board approve an amendment to the Floating Zone Plan associated with LMA No. H-143, as allowed under Section 59-7.2.1.1.2, to reflect the removal of the residential care facility and the reallocation of single-family dwelling units within the Site.

The additional units consist of eight detached houses and four townhouses, for a total of 17 detached houses and 108 townhouses on the Site. With the increased unit count, two additional MPDUs will be provided with the Subject Applications. The Applications show relocation of 15 of the previously approved townhouses from the west side of the Site to the east side of the Site, associated lot layout

adjustments, and modifications to previously approved open spaces. The architectural quality and character of the proposed homes is substantially similar to the prior Site Plan approval.



Figure 4: Illustrative Site Plan Comparison, Previously Approved Site Plan with Residential Care Facility (No. 820220220, left) and Subject Site Plan Amendment Proposal (No. 82022022A, right)



Figure 5: Illustrative Site Plan Amendment No. 82022022A

SUBDIVISION

Minor Subdivision & Plat No. 220210830, Interim Plat

On July 26, 2021, the Academy of the Holy Cross, the owner of Parcel B, filed Minor Subdivision Plan (“Type D – Subdivision to Reflect Ownership”) and Record Plat No. 220210830, pursuant to Section 50-7.1.D, to subdivide Parcel B.³ The approximately 7.72-acre portion of Parcel B closest to Strathmore Avenue is being sold by the Academy of the Holy Cross to the Applicants - SAH Homes Associates, LLC c/o EYA Development LLC. The remaining 23.2 acres of Parcel B will be retained by the Academy for the continued operation of the school (Figure 6). As of the date of this Staff report, the Minor Subdivision and Plat application is still pending.

In addition, the Applicant intends to record an interim plat to create conveyable, but unbuildable parcels, which will allow the closing to occur on schedule. The interim plat would include a parcel for Academy Park Drive, the private road that provides access to the Academy and serves as the main entrance to the proposed development. The Academy will retain ownership of Academy Park Drive.

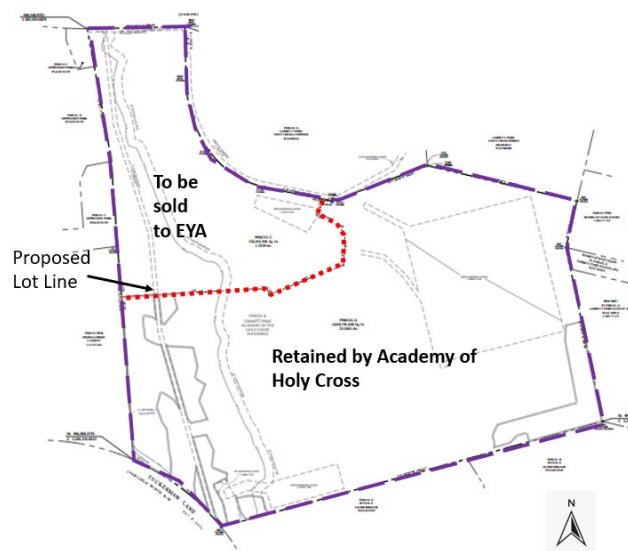


Figure 6: Minor Subdivision of Parcel B (Application No. 220210830)

Preliminary Plan Amendment No. 12022016A

The Subject Preliminary Plan Amendment proposes to adjust lot and parcel lines based on the removal of the residential care facility, the reallocation of 15 townhouses from the west side of the Project to the east, and the addition of four townhouses and eight detached houses. The private road parcels are in substantially the same location as previously approved.

³ A description of this application is provided for information only; it is not currently under consideration by the Planning Board.



Figure 7: Preliminary Plan Amendment No. 12022016A Lotting Exhibit

OPEN SPACE

The Project is providing 75,000 square feet, or 12.3%, of the townhouse site area as common open space. This represents a 5,000-square foot increase over the amount of open space provided with the original Site Plan.



Figure 8: Common open space (shaded in orange)

The proposed common open space network includes a walking trail around the periphery of the townhouses on the western and southern ends of the Site, a meadow and pocket park west of Academy Park Drive, and a park/playground east of Academy Park Drive. The park/playground area is the centerpiece of the development and features play equipment, a pergola, seating, and lush landscaping.



Figure 9: Park/Playground Illustration

TRANSPORTATION

Vehicular Access and Circulation

A previously approved driveway from Strathmore Avenue that provided access to the residential care facility's loading dock has been removed from the Project, resulting in two rather than three access points proposed from Strathmore Avenue. One proposed access point, onto Chamber Street (formerly called Private Street C), is located on the western side of the Site, aligned with Stillwater Avenue, and the other access point is onto Academy Park Drive (formerly called Private Street A). These two private streets will be connected internally to the Site by Dulcet Drive (formerly called Private Street B). The Strathmore Avenue and Academy Park Drive intersection will be improved with the installation of a new traffic signal and a 150-foot-long westbound left turn lane. The construction of the turn lane requires a maximum of three (3) feet from the existing vegetated median and will accommodate stacking for up to six vehicles.

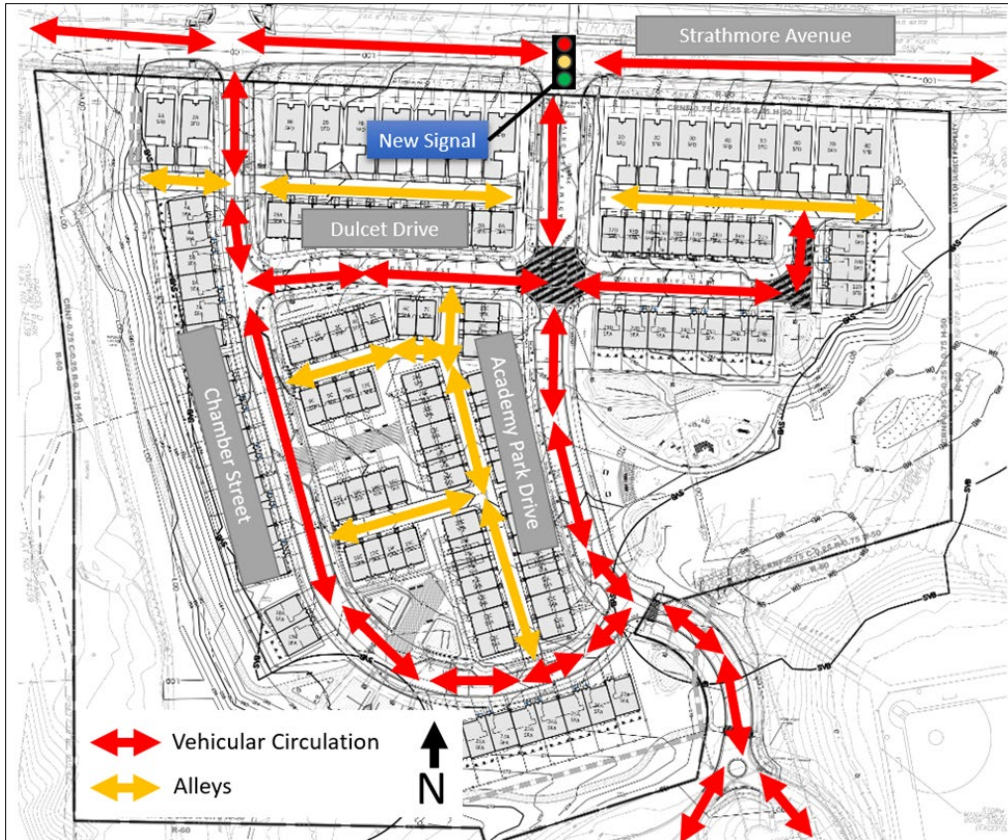


Figure 10: Vehicular Circulation

Parking

The Project proposes a combined total of 280 vehicle parking spaces. Two hundred and thirty-six (236) off-street spaces will be provided for the attached and detached residential units and 44 on-street parking spaces along the private internal roads are proposed to be dedicated towards visitor parking.

Non-Motorized Access and Circulation

Pedestrian access to the Site will be from the established sidewalk network to the west of the Site along Strathmore Avenue (MD 547), which will be extended by streetscape improvements along the Site frontage, consistent with recommended streetscape elements within the *Complete Streets Design Guide*. Pedestrian access will be provided from the north via an existing crosswalk along the western leg of the Strathmore Avenue and Stillwater Avenue intersection. Internally within the Site, five to six-foot wide sidewalks with tree-lined street buffers are provided along both sides of each private street.

The Application proposes to construct the master planned 10-foot-wide sidepath with a 6-foot-wide green panel along the Site's frontage, extending the existing sidepath from the west of the Site.

The existing flag bus stop along the Site frontage, located just east of existing middle access point, will be removed and replaced with a bus shelter located just west of Academy Park Drive.



Figure 11: Non-motorized Circulation

Off-Site Improvements

The Proposal includes off-street improvements, as required by the Local Area Transportation Review (LATR). These improvements include a protected pedestrian crossing, a crosswalk to correspond with a signal across Strathmore Avenue, new curb ramps to the north of the Site, an extended 10-foot-wide sidepath with a 6-foot-wide-green buffer to the east of the Site, and streetlighting to the east of the Site. While not required by the LATR, the Application also proposes a traffic signal at the Site's new main entrance on Strathmore Avenue consistent with the previous approval. The signal proposal will be further analyzed as part of the SHA access permit process.

With the removal of the proposed residential care facility from the previously approved Preliminary Plan, the LATR Proportionality Guide is lower, and therefore widening the pedestrian bridge to the west of the Site that ties into the existing shared use path that fronts the Symphony Park townhouse development will no longer be constructed. The existing bridge will remain.

ENVIRONMENT

The amended Final Forest Conservation Plan (FFCP) responds to the changes in the proposed number and types of residential units on the Site. There are still 3.59 acres of forest being retained and 0.47 acres of forest being removed. The Applicant proposes to plant 3.25 acres of forest on-site and apply the extra 0.30 acres of plantings as enhanced forestation as mitigation for proposed stream buffer encroachments. A Category I Conservation Easement will be recorded over 2.17 acres of forest plantings, and a Category II Conservation Easement will be recorded over the remaining 1.08 acres of forest plantings.

SECTION 4: COMMUNITY OUTREACH

The Applicant was not required to hold a pre-submittal public meeting for the Amendment applications. All noticing requirements have been satisfied.

Staff received phone calls from an alumnus of the Academy of the Holy Cross advocating for signage or public art along Strathmore Avenue to commemorate the Academy's contribution to County history. Staff referred the caller to the Historic Preservation Office for further discussion.

SECTION 5: PRELIMINARY PLAN AMENDMENT 12022016A FINDINGS AND ANALYSIS

The Planning Board approved Preliminary Plan No. 120220160, MCPB No. 22-118, to create lots for 9 detached houses and 104 townhouses on the Subject Site with conditions. Preliminary Plan Amendment 12022016A requests approval to remove the previously approved residential care facility; add eight detached houses and four townhouses, for a total of 125 dwelling units (17 detached houses and 108 townhouses); relocate 15 of the previously approved townhouses from the west side of the Site to the east side and make associated lot layout adjustments; and modify previously approved open spaces. The proposed Preliminary Plan Amendment does not alter the intent of the previous findings, which remain applicable, except as modified below.

1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

a) *The block design is appropriate for the development or use contemplated*

The Amendment shows a continuation of the residential block design pattern established by the previous approval east of Academy Park Drive. Per Section 50.4.3.B.1.b., “Blocks must be designed with sufficient width to provide 2 tiers of lots. The Board may approve exceptions to block width design for blocks adjacent to heavy traffic ways, railroads, streams, drainage courses, or for land uses where it is appropriate to establish blocks with 1 tier of lots.” For Preliminary Plan 120220160, the Planning Board approved an exception to this requirement for the units on the west and south side of Chamber Street based on the environmental constraints of the stream valley buffer on the western side of the Site. Similarly, Staff recommends an exception to the requirement for two tiers of lots on the south and east side of Dulcet Drive East due to the stream valley buffer located on the east side of the Site.

b) *The lot design is appropriate for the development or use contemplated*

The Preliminary Plan Amendment would create 125 buildable lots for detached houses and townhouses and additional parcels for open space and private roads. The proposed lots satisfy the dimensional requirements for the CRNF zone as specified in the Zoning Ordinance and as shown in Table 1 below, in relation to maximum density, height, and minimum open space.

c) *The Lot(s) and Use comply with the basic requirements of Chapter 59*

Table 1: Data Table for CRNF Zone, Standard Method, Section 59-5.3.5⁴

Development Standard	Permitted/ Required	Approved Preliminary Plan 120220160 and Site Plan 820220220	Proposed Preliminary Plan 12022016A and Site Plan 82022022A
Tract Area		688,801 sf. (15.81 ac.)	688,801 sf. (15.81 ac.)
Prior Dedication	n/a	19,952 sf. (0.46 ac.)	19,952 sf. (0.46 ac.)
Proposed Dedication	n/a	n/a	n/a
Site Area	n/a	668,849 sf. (15.35 ac.)	668,849 sf. (15.35 ac.)
Maximum Density of Development (CRNF-0.75, C-0.25, R-0.75, H-50)	Residential - 0.75 FAR/ (516,658 sf.) Commercial - 0.25 FAR (172,219 sf.)	Residential -0.70 FAR/ (482,000 sf.) Commercial - 0 FAR (0 sf.)	Residential <u>0.58 FAR/</u> <u>(400,000 sf)</u> Commercial - 0 FAR (0 sf.)
Public Open Space (Residential Care Facility)	10% (19,438 sf.)	10.3% (20,000 sf.; 0.46 acres)	(no longer required with removal of residential care facility)
Common Open Space (Townhouses- site area of 607,769 sf)	10% (44,000 sf.) <u>60,777 sf)</u>	11.4% (50,000 sf.; 1.15 acres)	<u>12.3% (75,000 sf)</u>
Minimum Lot Size	Established by site plan	672 sf.	<u>658 sf</u>
Maximum Lot Coverage	Established by site plan	80%	80%
MPDU requirement	15%	15% (17 units)	15%
Building Height	Established by FZP H-143	50 feet	50 ft
Accessory Structure Height	25 feet	25 feet	25 ft
Principal Building Setbacks From Site Boundary – Strathmore Ave. Side & Rear	Established by FZP H-143	10 ft. 50 ft.	10 ft. 50 ft.
Front	Established by Site Plan	0 ft.	0 ft.
Side street		0 ft.	0 ft.
Side		0 ft.	0 ft.
Rear		0 ft.	0 ft.

⁴ Changes from the prior approval shown in red font.

2. *The Preliminary Plan substantially conforms to the Master Plan.*

With the proposed changes, the Project remains in substantial conformance with the recommendations of the 1992 *North Bethesda/Garrett Park Master Plan* (“Master Plan” or “Plan”) despite the removal of the senior housing component. The Master Plan puts forth sweeping recommendations for the Plan Area which include concentrating future development at Metrorail stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing; reducing block sizes in the vicinity of Metro areas; making pedestrian improvements, particularly near transit nodes; and providing a landmark quality and sense of place for nodal areas and districts. The Project satisfies these recommendations within the context of the Site by adding housing near the Grosvenor-Strathmore Metro Station, improving transportation infrastructure for non-automobile modes, providing walkable blocks within the development, and using design best practices and construction materials to create a high-quality recognizable place that fits within the larger neighborhood.

The Plan identifies the 35+ acre tract for the Academy of the Holy Cross which includes the school buildings, athletic fields, and a former group home for retired nuns. Citing the students’ use of nearby transit, the Plan “supports the continued existence of the Academy and the retirement home at this location and recommends that the existing R-60 zoning be confirmed” (page 81). The Amendment retains the Academy of the Holy Cross in its existing location. However, with the closure of the St. Angela’s Hall retirement home, and the removal of the proposed residential care facility from the Project, this part of the recommendation can no longer be fully realized, nor can the Plan’s recommendation for additional elderly housing in the area. Despite the removal of the senior housing, the overall benefit of a new, well-designed residential community in a Metro-accessible location significantly advances the overall vision of the Master Plan.

The Project continues to achieve the environmental Master Plan goals for the Site including preservation of green areas and open space for environmental protection, wildlife sanctuary, recreation, and visual relief (page 81). The Amendments reduce the amount of impervious area within the stream valley buffer while protecting and enhancing environmental features within Category I and Category II Conservation Easements.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

a) *Roads and other Transportation Facilities*

i. *Existing Facilities*

Strathmore Avenue is classified as an Area Connector with a master plan width of 80 feet. It currently has one travel lane in each direction. The Site has a sidewalk along

the Strathmore Avenue frontage between the western lot line and the existing access road to the Academy of the Holy Cross. There is no sidewalk present east of the access road.

The Site has one existing bus stop located just to the east of the existing middle access. It is served by Montgomery County Ride On routes 5 and 37.

- Ride On route 5 provides service between Twinbrook Metro Station and Silver Spring Metro Station.
- Ride On route 37 provides service between Potomac Community Center via the Grosvenor-Strathmore Metro Station and Wheaton Metro Station.

ii. ***Proposed public transportation infrastructure***

A ten-foot-wide sidepath will be installed along the Site frontage on Strathmore Avenue. The sidepath will be buffered from the street with a six-foot-wide street buffer. This is consistent with the previous approval frontage improvement. No dedication is needed to provide the frontage improvement.

The existing flag bus stop will be removed and replaced with a bus shelter located just west of Academy Park Drive.

iii. ***Proposed private transportation infrastructure***

The Proposal will realign the existing access road, now called Academy Park Drive, and add two new street connections (Chamber Street and Dulcet Drive). Consistent with the previous approval, these internal streets will be private. These streets are intended to only accommodate local circulation within the Project and the adjacent Academy of the Holy Cross, and do not provide transportation capacity for the general public. Additionally, these streets could not effectively function as public roads constructed to public standards because of approved modifications related to lane widths and green panels. Additionally, vehicular access and circulation via a new internal road system meet the requirements of Chapter 49, Streets and Roads.

As previously approved, the Application also includes the provision of a natural surface trail along the western and southern boundary of the Subject Site. This trail will connect to the sidepath on Strathmore Avenue on the north side of the Site and connect to both Chamber Street and Academy Park Drive on the south side of the Site.

b) Local Area Transportation Review (LATR)

An LATR Transportation Study was required during the previous approval process. To demonstrate that the proposed amendment land use trip generation is below the

approved land use trip generation, a Transportation Statement was submitted as part of the amendment application. Table 2 provides this comparison.

Table 2 – 4910/4920 Strathmore Estimated Person Trip Generation

Scenario	AM Person Trips	PM Person Trips
Approved Trip Generation	137	172
Proposed Trip Generation	101	123
Net Trip Generation	-36	-49

Source: Transportation Impact study by Gorove Slade dated October 20, 2023, amended by staff

As shown in the Table, the amendment land use has a lower trip generation both during the AM and PM peak hours. Therefore, additional LATR adequacy testing, and a transportation study are not required.

As the amendment reduces the total number of units, the LATR proportionality guide is also lower than what was previously approved. Under Section 8 of the 2022 Local Area Transportation Review Guidelines (LATR Proportionality Guide), the maximum cost of mitigation improvements the Applicant is required to construct or fund for a project consisting of 108 townhome units and 17 detached housing units is not to exceed \$1,062,795 (see calculation below).

$$\text{LATR Proportionality Guide} = (\text{Extent of Development}) (\text{LATR Proportionality Guide Rate}) (\text{LATR Proportionality Guide Adjustment Factor})$$

$$\$1,062,795 = (108 \text{ attached units}) (\$16,506) (50\%) + (17 \text{ detached units}) (\$20,173) (50\%)$$

This is lower than the Proportionality Guide previously approved of \$1,315,890 due the removal of the residential care facility and modification to unit types.

Table 3 – Comparison of Proportionality Guide for Approved Development and Proposed Development

Scenario	Proportionality Guide
Approved Development	\$1,315,890
Proposed Amendment	\$1,062,795
Difference (Approved – Proposed)	\$253,095

Source: Transportation Impact study by Gorove Slade dated October 20, 2023, amended by staff

Due to this reduction, in compliance with the 2022 LATR Guidelines, the list of prioritized projects was assessed by the Applicant and the reviewing agencies to determine if all previously approved LATR Mitigation Projects would be within the updated Proportionality Guide. Based on that assessment, the bridge widening to the west along

the south side of Strathmore Avenue was removed from the list of LATR Projects to adhere to the updated proportionality guide total.

The final modified list of projects is included in Table 4 and a map of the projects is provided on Figure 12 below. It should be noted that Project 1 was the bridge widening project and was removed from both the list and map.

Table 4: 4910/4920 Strathmore LATR Mitigation Project List

Map ID	Project Location	Project Description	Construct/ Mitigation Payment	Project Cost
2	Strathmore Ave/Stillwater Ave: ADA-Compliant Curb Ramps and Continental Crosswalk	North leg crosswalk and curb ramps (3) on the north side of Strathmore Ave.	Construct	\$34,440.00
3	Strathmore Ave/Center Driveway: ADA-Compliant Curb Ramp and Continental Crosswalk	East leg crosswalk and receiving curb ramp on the north side of Strathmore Ave.	Construct	\$27,182.40
4	East Sidepath Connection with 10' sidepath with 6' buffer	South side of Strathmore Avenue between eastern property boundary to existing sidewalk east of Flanders Avenue for 1,050 feet	Construct	\$722,534.40
5	Five (5) Streetlights to the East	South side of Strathmore Avenue between eastern property boundary to existing sidewalk east of Flanders Avenue	Construct	\$163,800.00
Construction Subtotal				\$947,956.80
Mitigation Payment Subtotal				\$114,838.20
MPDU Credit ¹				-\$16,943.47
Adjusted Mitigation Payment Subtotal				\$97,894.73
Total				\$1,045,851.53
Proportionality Guide				\$1,062,795.00
¹ Consistent with Section TA4 of the 2020-2024 Growth and Infrastructure Policy, any mitigation payment will be reduced proportionally based on the share of the project's LATR Proportionality Guide that is generated by MPDUs.				



Figure 12 – Map of Off-site LATR Mitigation Projects

As conditioned, all off-site mitigation projects must be constructed, and all mitigation payments must be paid before the issuance of the final Use and Occupancy Certificate. Montgomery County Planning, MCDOT, and MDOT SHA staff reviewed the Transportation Impact Study (TIS) and approved the mitigation project list. Therefore, the Applicant has satisfied the requirements of the LATR, and the public transportation facilities are adequate for the Site.

As conditioned, modifications to conditioned improvements may be warranted but will still need to meet the timing for construction. Situations may arise in which an Applicant proposes to replace a conditioned improvement for another improvement on the list of mitigation projects identified in the Staff Report. In these instances, the replacement project must be of similar cost to the conditioned project, as estimated in the Staff Report and adjusted for inflation. This LATR Mitigation Alternative Project List is summarized in Table 5.

Table 5: 4910/4920 Strathmore LATR Alternative Mitigation Project List

LATR Study Map ID	Project Location	Project Description
1 (initially on LATR mitigation project list)	Strathmore Avenue - 30' west	Sidewalk Connection (Remove existing sidewalk/bridge and replace with widened 10-ft-wide sidewalk)
2	Strathmore Avenue (south side), crossing of Holy Cross Academy driveway	Add marked crossing
4	Strathmore Avenue (north side), eastern study area boundary to bus stop across from Holy Cross Academy driveway	Add 5 to 8 ft. sidewalk with 5 to <8 ft. buffer
5	Strathmore Avenue (north side), bus stop across from Holy Cross Academy to Stillwater Avenue	Add 5 to 8 ft. sidewalk with 5 to <8 ft. buffer
7	Stillwater Avenue with Strathmore Avenue (north side, east-west crossing)	Add marked crosswalk
8	Strathmore Avenue (north side), Stillwater Avenue to western study area boundary	Add 5 to 8 ft. sidewalk with 5 to <8 ft. buffer
9	Strathmore Avenue & Stillwater Avenue (north-south crossing), NW corner	Bring existing curb ramps to compliance
10	Strathmore Avenue & Stillwater Avenue (east-west crossing), NE corner	Add curb ramp with DWS
12	Strathmore Avenue & Holy Cross Academy Driveway (north-south crossing)	Bring existing curb ramps to compliance
13	Strathmore Avenue & Holy Cross Academy Driveway (east-west crossing), SE corner	Add curb ramp with DWS
17	Strathmore Avenue at Symphony Park Drive EB bus stop (Stop ID 26222)	Add Real-Time Information Display (RTI)
18	Strathmore Avenue at Jolly Way WB bus stop (Stop ID 26256)	Add Real-Time Information Display (RTI)

Source: Page 40 of the Applicant's 2022 LATR prepared by Gorove Slade, amended by staff

c) Schools

i. Overview and Applicable School Test

The proposed Preliminary Plan Amendment 12022016A and Site Plan Amendment 82022022A for 4910/4920 Strathmore Avenue is scheduled to come before the Planning Board on January 11, 2024. Therefore, the FY24 Annual School Test, approved by the Planning Board on June 15, 2023 and effective July 1, 2023 is applicable to this application. This amendment plan proposes eight additional single family detached units and four additional single-family attached units for a total of 17 detached houses and 108 townhouses.

ii. School Adequacy Test

The project is served by Garrett Park ES, Tilden MS and Walter Johnson HS. Based on the FY24 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 6: Applicable FY2024 School Adequacy

	Projected School Totals, 2027				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit		Tier 1	Tier 2	Tier 3
Garrett Park ES	777	668	86.0%	+109	No UPP	194	265	381
Tilden MS	1,244	1,139	91.6%	+105	No UPP	231	354	541
Walter Johnson HS ⁵	2,291	2,240	97.8%	+51	No UPP	231	510	853

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school’s adequacy status and ceilings, as determined in the Annual School Test. **Under the FY24 Annual School Test, Garrett Park ES, Tilden MS and Walter Johnson HS do not require any UPP as identified in Table 6.** If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

⁵ Projected enrollment reflects the estimated impact of CIP P651908, which will reassign students between the Down County Consortium, Bethesda-Chevy Chase HS, Walter Johnson HS, Walt Whitman HS, and Charles Woodward HS in 2026.

iii. **Calculation of Student Enrollment Impacts**

To calculate the number of students generated by the proposed plan, the number of dwelling units is multiplied by the applicable School Impact Area student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit.

With a net of eight single family detached units and four single-family attached units that are not age-restricted, the proposed project is estimated to generate the following number of students based on the subject Site’s location within an Infill Impact Area:

Table 7: Estimated Student Enrollment Impacts

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	8	0.202	1.616	0.096	0.768	0.141	1.128
SF Attached	4	0.161	0.644	0.087	0.348	0.126	0.504
MF Low-rise	0	0.065	0.000	0.030	0.000	0.040	0.000
MF High-rise	0	0.039	0.000	0.016	0.000	0.018	0.000
TOTALS	12		2		1		1

As shown in Table 7, on average, this project is estimated to generate 2 elementary school students, 1 middle school student and 1 high school student. The estimated number of students generated do not exceed the adequacy ceilings identified for each school in Table 6. Therefore, no additional UPPs are required and neither are partial payments across multiple UPP tiers.

d) Other Public Facilities and Services

The Subject Site is located within the W-1 and S-1 water and sewer categories and is served by a 12-inch water line along Strathmore Avenue and a 15-inch sewer line running north-south through the Site. Therefore, there are adequate water and sewerage facilities to serve the Project. Dry utilities (electric, gas, and communications) will be provided via a public utility easement connected to Strathmore Avenue and running along the central drive, alleys, and behind the proposed front-load townhouses. Additionally, the Project will be serviced by adequate police, fire, and health services.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied.

As discussed in the findings and analysis section of the report for Forest Conservation Plan No. F20240120, all requirements of the Forest Conservation Law are satisfied.

5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.

DPS approved a Revised Stormwater Management Concept on November 17, 2023. The plan proposes to meet required stormwater management goals via micro-bioretenion practices, enhanced micro-bioretenion practices, planter boxes, and a Modular Wetland System.

SECTION 6: SITE PLAN AMENDMENT 82022022A FINDINGS AND ANALYSIS

The Planning Board approved Site Plan No. 82022022, MCPB No. 22-119, to create lots for 113 dwelling units (9 detached houses and 104 townhouses) and a 145-bed residential care facility on the Subject Site.

Site Plan Amendment 82022022A requests to remove the residential care facility and add 8 detached houses and 4 townhouses (total of 125 dwelling units with 17 detached houses and 108 townhouses); relocate 15 of the previously approved townhouses from the west side of the Site to the east side and make associated lot layout adjustments; and modify previously approved open spaces. The proposed Site Plan Amendment does not alter the intent of the previous findings, which remain applicable, except as modified below.

2. To approve a Site Plan, the Planning Board must find that the proposed development:

a) satisfies any previous approval that applies to the site;

Local Map Amendment (LMA) No. H-143, and the associated Floating Zone Plan, are applicable to this Site. Under Section 59-7.2.1.I.2, at site plan, the Planning Board may approve an amendment to a floating zone plan that does not increase density or height, add a previously disallowed use, decrease a setback, or change any binding element. The proposed amendment to the Floating Zone Plan does not increase density or height, add any new use, or decrease any setbacks. The binding elements, as listed below, remain unchanged. Staff recommends approval of the Floating Zone Plan amendment.

The Site Plan Amendment will satisfy all the binding elements of LMA No. H-143, as follows:

- i. ***Permitted uses on the Site include up to 125 single-family detached and attached dwelling units (including a minimum of 15% MPDUs) and a residential care facility (with up to 145 beds).***

The Site Plan Amendment proposes 125 detached and townhouse units with 15% MPDUs. The residential care facility has been removed from the Project.

- ii. ***Commercial uses are not permitted on the Property, except permitted accessory uses associated with the residential care facility.***

The Project does not include any commercial uses.

- iii. ***A natural surface trail must be provided along the western side of the Site that is subject to a public access easement.***

A natural surface trail is provided along the western side of the Site between the stream valley and the proposed houses.

- iv. ***The Property is limited to no more than three points of vehicular access from Strathmore Avenue.***

Two access points are provided from Strathmore Avenue.

- v. ***The Property must be subdivided to delineate the boundary of the area subject to the rezoning at the time of Preliminary Plan.***

The Subject Preliminary Plan Amendment delineates the boundary of the area subject to the rezoning.

- vi. ***A Phase I Noise Analysis must be submitted with the Preliminary Plan to identify noise levels that might impact interior and exterior spaces subject to the Planning Department's Noise Guidelines. The analysis must be performed by a qualified acoustical engineer. If a combined Preliminary/Site Plan is submitted, the Site Plan must include recommendations from a qualified acoustical engineer to mitigate excessive noise levels per the Noise Guidelines.***

Conditions of approval require an acoustical engineer to certify that excessive noise levels are mitigated per the Noise Guidelines.

- d) ***satisfies applicable use standards, development standards, and general requirements under this Chapter;***

- i. ***Use and Development Standards***

Single unit living and townhouse living are permitted uses in the CRNF Zone. The proposed development satisfies the development standards of the zone as demonstrated in Table 1 of the Preliminary Plan findings section of this report.

- ii. ***Division 59-6 General Development Standards***

- (1) Division 6.1 Site Access***

Vehicular access to the Site will occur via two access points on Strathmore Avenue. Chamber Street, formally called Street C, will be a private street with full access onto Strathmore Avenue. This street is aligned with Stillwater Avenue to the north and provides north/south circulation along the Subject Site's western boundary before connecting to Academy Park Drive at the north of the site.

Academy Park Drive, formally called Street A, is a private street and will be signalized at the intersection with Strathmore Avenue. This street provides north/south circulation within the center of the site and connects to the Academy of the Holy Cross located just to the south.

Dulcet Drive, formally called Street B, provides east/west circulation through the site, connecting Chamber Street and Academy Park Drive. Internal circulation is also facilitated via 20-foot-wide, two-way alleys accessed off the private streets.

Pedestrian and bicycle access will primarily be made via Strathmore Avenue. As described in the Transportation section of this report, pedestrian access will be improved through the implementation of a 10-foot-wide sidepath along the Site frontage. A natural surface trail located along the western boundary of the site that connects to Strathmore Avenue will also provide additional pedestrian circulation through the site. In addition, the existing bus stop will be replaced with a bus shelter located just west of the intersection of Strathmore Avenue and Academy Park Drive.

The Amended Plan provides safe and convenient vehicular, bicycle, and pedestrian circulation.

(2) *Division 6.2 Parking*

Parking is proposed within the front-loaded and rear-loaded garages. On-street parking is also provided within the site along each of the private roads. A total of 280 parking spaces are proposed, with 236 provided for the residential units and 44 on-street spaces provided for visitor parking. This is 30 parking spaces above the maximum number allowed in the zone. However, per Section 59.6.2.3.H.2.b., an applicant may provide more parking spaces than allowed by the maximum if all the parking spaces provided in excess of the maximum parking number allowed are made available to the public and are not reserved.

The Application meets the intent of the parking, queuing, and loading requirements to ensure that adequate parking is provided in a safe and efficient manner.

Table 8: Parking Requirements for the Proposal

Use	Minimum/Maximum	Proposed
Townhouses 108 du	108/216	219
Single-Family Detached 17 du	17/34	17
Visitor Parking	0/0	44
Total	125/250	280

(3) Division 6.3 Open Space and Recreation

Per Section 59.6.3.1 of the Zoning Code, open space must provide adequate light, air, circulation, and recreation and encourages preservation and enhancement of natural resources, including improvement of water and air quality. The Amendment provides common open space in excess of the 10% requirement. The proposed common open space network includes a walking trail around the periphery of the townhouse portion of the development, a mews and two pocket parks west of Academy Park Drive, and a park/playground area east of Academy Park Drive.

As previously approved, portions of the common open space do not meet the 50-foot width requirement of Section 59-6.3.5.B. for standard method projects. However, the Planning Board granted an exception to this requirement with the previously approved Site Plan 820220220 since the common open space otherwise meets the intent of Section 59.6.3 by providing access to light, air, and green space thereby promoting recreation while preserving and engaging with natural resources. A significant amount of the common open space overlaps, or is located directly adjacent to, the Site’s stream valleys and other natural features, enhancing the experience of the Site’s active, usable areas.

The recreational analysis for this Project has been updated to account for the additional detached houses and townhouses. The Project will provide a natural area, playground, two pocket greens, picnic seating, inclusive adaptive recreation, a terraced garden area, and a bicycle support station. These selected elements can support various social engagement and activity levels across a variety of physical abilities and age groups.

Proposed Onsite Recreation Facilities and their Supply Points

Recreation Facility	Quantity	% Bonus Points	Tots	Children	Teens	Young Adults	Adults	Seniors
Natural Area	1	0%	0.88	1.49	2.32	6.18	9.13	0.71
Playground (Age 2-12) [Multi-age Play]	1	0%	9	11	3	2	4	2
Pocket Green	2	0%	6	10	10	16	16	12
Picnic/Seating	5	0%	5	5	7.5	15	15	15
Inclusive Adaptive Recreation Elements	1	0%	4	6	6	9	9	9
Terraced Garden Area	1	0%	2	2	2	2	2	2
Bicycle Support Station	1	0%	0	0	3	3	3	3
Total Onsite Supply Points=			26.88	35.49	33.82	53.18	58.13	43.71

Results: Demand, Supply & Adequacy

Age Group	Total Demand Points	Offsite Supply Points	Onsite Supply Points	Total Supply Points	Adequacy
Tots	17.67	6.18	26.88	33.06	Adequate
Children	29.71	10.4	35.49	45.89	Adequate
Teens	23.23	8.13	33.82	41.95	Adequate
Young Adults	61.83	20.11	53.18	73.29	Adequate
Adults	91.25	24.08	58.13	82.21	Adequate
Seniors	14.26	4.99	43.71	48.7	Adequate

e) Satisfies the applicable requirements of:

i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and

DPS approved a Revised Stormwater Management Concept on November 17, 2023. The plan proposes to meet required stormwater management goals via micro-bioretenion practices, enhanced micro-bioretenion practices, planter boxes, and a Modular Wetland System.

ii. Chapter 22A, Forest Conservation

As described in the Forest Conservation Plan findings section of this report, the Project satisfies the applicable requirements of Chapter 22A.

f) Provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;

The Project will provide safe, efficient, and integrated garage and on-street parking to serve future residents and visitors. The scale of the proposed houses is consistent with existing nearby developments. The internal private road network provides a logical, cohesive circulation system for pedestrians and vehicles. Open spaces and site amenities are well located and knitted throughout the fabric of the proposed neighborhood.

g) Substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;

i. North Bethesda/Garrett Park Master Plan

As discussed in the Preliminary Plan Amendment findings section of this report, the Site Plan Amendment substantially conforms with the recommendations of the 1992 *North Bethesda/Garrett Park Master Plan*.

ii. Noise Guidelines

The Applicant's Noise Analysis shows maximum noise levels up to 68 dbA Ldn along the northern facades of the proposed single-family houses on Strathmore Avenue. The Noise Guidelines allow for a waiver of exterior noise guidelines where exterior attenuation is not feasible. Exterior noise attenuation measures may be infeasible due to economics, aesthetics, or site-related constraints of size, shape, or topography. In this case, exterior attenuation would require construction of noise walls along Strathmore Avenue, which would seal off the development from the community and detract from the aesthetics of the development and the neighborhood. This is not warranted given the limited area where maximum exterior noise levels affect the front yard spaces and building faces of homes along the road. Additionally, there are usable outdoor spaces within the development that provide an opportunity for outdoor gathering and recreation. Therefore, Staff recommends granting a waiver of exterior noise guidelines for this development. Indoor spaces must be reduced to 45 dBA and architectural materials will be used to achieve this requirement. As conditioned, certification of design and construction is required during the permitting process.

h) will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;

As discussed in the Preliminary Plan Amendment findings section of this report, the Site Plan Amendment substantially conforms with the recommendations of the 1992 *North Bethesda/Garrett Park Master Plan*.

j) on a property in all other zones, is compatible with existing, approved or pending adjacent development.

The replacement of the previously approved residential care facility with detached houses and townhouses does not impact the compatibility of the Project with existing, approved adjacent development. Compared to the residential care facility, the proposed houses on the east side of Academy Park Drive will have reduced visual impact on existing adjacent and confronting development.

SECTION 7: FOREST CONSERVATION PLAN F20240120 FINDINGS AND ANALYSIS

All Forest Conservation Law, Chapter 22A requirements are satisfied. The Project conforms to the Environmental Guidelines and meets all the necessary requirements for forest mitigation through various conditions of approval.

ENVIRONMENTAL GUIDELINES

The Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) No. 420211410 was approved for the Subject Property by Staff on July 27, 2021, of which there are several environmental resources that impact the Site and Subject Property. The Property is within the Rock Creek watershed and streams run along the eastern, southern, and western edges of the Property where three (3) non-tidal wetlands are present. Rock Creek is a State Use Class I stream in this area and is not within a Special Protection Area. After being piped under the driveway, the tributary from Parcel A runs into the western stream, which continues to the south. The NRI/FSD illustrates that more than 10 acres of the 35+ acres that make up the Subject Property is encumbered by stream valley buffer. A portion of this stream is within a FEMA 100-year floodplain. There are 4.06 acres of forest on the Site, with 152 significant and specimen trees on-site and within 100 feet. There is 0.64 acres of forest and 46 significant and specimen trees on the Subject Property. There is one soil type (16D) classified as highly erodible, along with areas of steep slopes (15% to 25%) with erodible soil, and steep slopes greater than 25%. There are no observed or known rare, threatened, or endangered species, nor historic resources on the Property.

Site Plan 820220220 approved several minor encroachments into the stream valley buffer for a natural surface trail. The trail will traverse the primary open space area behind residential units on the western side of the Site. Along this trail, numerous plantings are proposed within Category I and II Conservation Easements. A second area of Category I and II Conservation Easements is proposed along the southeastern tributary.

Other approved encroachments into the stream valley buffer included some stormwater management features, a small portion of Street C for fire access that is permeable pavement, and townhouse rear yards and fencing. The total area of stream buffer encroachment for Preliminary Plan 12022016A and Site Plan 82022022A is 5,095 square feet. Per the Environmental Guidelines these encroachments may be permitted if other approaches are implemented to replace lost buffer functions. The Applicant is providing mitigation for the lost buffer functions by expanding the buffer by 2,742 square feet (“buffer averaging”) near the southern property line with the school, and by providing an additional 13,068 square feet of forest planting in buffers (“enhanced forestation”) over and above their forest conservation planting requirement. The total mitigation provided to compensate for lost buffer functions is 15,810 square feet.

FINAL FOREST CONSERVATION PLAN

A Preliminary Forest Conservation Plan (PFCP No. H-143) was approved with Local Map Amendment (LMA) No. H-143 on May 19, 2022. The PFCP included a variance approval to remove twelve (12) trees and to impact, but retain, an additional three (3) trees covered by the variance provision of Section 22A-12(b)(3) of the Forest Conservation Law. The PFCP covers the entire Site that was subject to the LMA, including the 15.36-acre area under this Site Plan and the remaining property that is being retained by the Holy Cross Academy. The net tract area covered by the PFCP is 39.46 acres.

A Final Forest Conservation Plan (FFCP) was previously approved with the Preliminary and Site Plans (FFCP No. 820220220). This FFCP covered the entire property under the PFCP. The Net Tract Area for the FFCP, including off-site disturbance related to the development, was 40.45 acres. Of the existing 4.06 acres of on-site forest cover, 3.59 acres were preserved in easements, and 0.47 acres of forest was cleared or counted as cleared to construct the proposed development. The total amount of forest mitigation required was 2.95 acres.

An amendment to FFCP No. 820220220 was submitted for review with Preliminary Plan Amendment 12022016A and Site Plan Amendment 82022022A. Designated FFCP F20240120, the amended FFCP responds to the changes in the number and types of residential units on the site. Due to minor adjustments in gross tract area and amount of off-site disturbance, FFCP F20240120 has a Net Tract Area of 40.44 acres. There are still 3.59 acres of forest being retained in easements and 0.47 acres of forest being removed. The amount of forest mitigation required remains at 2.95 acres.

The Applicant proposes to plant 3.25 acres on-site and apply the extra 0.30 acres (13,068 square feet) of plantings as enhanced forestation for mitigation for proposed stream buffer encroachments, as noted earlier in this staff report. A Category I Conservation Easement will be recorded over 2.17 acres of the new forest plantings. A Category II Conservation Easement will be recorded over the remaining 1.08 acres of new forest plantings to allow for maintenance required to control invasive species.

VARIANCE REQUEST

Approval of PFCP H-143 included a variance approval to remove twelve (12) Protected Trees, and to impact the CRZ, but save, an additional three (3) trees. FFCP 820220220 approved an amended variance request that increased the CRZ disturbance to three (3) trees from the amount permitted under the original variance approval, and a new request to disturb the CRZ of, but save, one (1) tree not included in the original variance request. The status of the three trees sustaining increased impacts did not change from the original variance approval.

FFCP F20240120 includes an amended variance request for increased Critical Root Zone (CRZ) impacts to three trees, and new CRZ impacts to two trees. This amended variance requests increases to the CRZ impact of trees 141, 149, and 199, plus new impacts to trees 105 and 151 (see Table 9).

Table 9: Protected Trees to be Newly Impacted

Tree Number	Species	DBH Inches	% CRZ Impacts	Status and Notes
105	Red Maple (<i>Acer rubrum</i>)	39"	1%	Save
151	Silver Maple (<i>Acer saccharinum</i>)	45"	3%	Save

Table 10: Protected Trees with Increased CRZ Impacts

Tree Number	Species	DBH Inches	% CRZ Impacts	Status and Notes
141	American sycamore (<i>Platanus occidentalis</i>)	40.5"	29%	Previously approved for 28% CRZ impact. Request permission to remove but try to save.
149	Silver Maple (<i>Acer saccharinum</i>)	53"	18%	Previously approved for 15% CRZ impact. Continue to save.
199	Red Maple (<i>Acer rubrum</i>)	39"	7%	Previously approved for 3% CRZ impact. Continue to save.

Unwarranted Hardship

Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the Subject Property is constrained by the stream valleys on its eastern and western sides. Retention of the existing school and its access further limits development. The unwarranted hardship is caused by the necessary layout of the proposed development on the Subject Property, which is dictated by the existing site conditions, development standards of the zone, Montgomery County agency requirements, and requirements associated with Master Plan objectives. Tree number No. 141 is impacted by grading required to tie into the adjacent lot, by grading required to construct the natural surface trail, and by the addition of a required stormwater outfall. These impacts have been minimized to the extent feasible. Tree No. 199 is impacted by the expansion of the LOD to tie in a new section of sidewalk to the existing walk. Trees No. 149, and 151 are impacted by required sidewalk and frontage improvements and by a new turn lane required within the Strathmore Avenue right-of-way. Tree 105 is newly impacted by grading

required for the construction of the townhouses now planned for the northeast corner of the property. The inability to impact these trees would prevent completion of grading, infrastructure and amenities required to build this project. Therefore, there is a sufficient unwarranted hardship to justify a variance request because approval of the project is contingent on the provision of infrastructure and amenities required by the Planning Department and other County agencies. Denying the variance would therefore deny the Applicant a reasonable and significant use of the Property.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. The following determinations in the review of the variance request and the proposed Forest Conservation Plan is as follows:

Variance Findings

The following determinations are based on the required findings for granting of the requested variance:

1. Will not confer on the applicant a special privilege that would be denied to other applicants.

Granting the variance will not confer a special privilege on the Applicant as the removal and disturbance to the specified trees are due to the development of the Property, location of the trees and necessary site design requirements. Granting a variance to allow disturbance within the Site to meet the development requirements of the Planning Department and various County agencies is not unique to this Applicant. With the data presented, it is concluded that the granting of this variance is not a special privilege that would be denied to other applicants.

2. Is not based on conditions or circumstances which are the result of the actions by the applicant.

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions, development standards of the zone, and necessary design requirements of this Application, including street frontage improvements.

3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The requested variance is a result of the existing conditions and the proposed site design and layout of the Subject Property, and not as a result of land or building use on a neighboring property.

4. Will not violate State water quality standards or cause measurable degradation in water quality.

The variance will not violate State water quality standards or cause measurable degradation in water quality. The original variance approval granted under PFCP No. H-143 required mitigation tree plantings for Protected Trees being removed. Tree 141 in the amended variance submitted with this FFCP was already approved for removal and included in the requirement to provide mitigation trees for trees removed. The mitigation trees will replace water quality functions that may be lost by the removed trees. Therefore, the Application will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

There are eleven Protected Trees proposed for removal in the amended variance request, resulting in a total of 430 inches of DBH being removed. The Applicant proposes mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced at a ratio of approximately 1-inch caliper for every four inches removed using trees that are a minimum of three caliper inches in size. This results in a total mitigation of 108 inches with the installation of 36 3-inch caliper shade trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements. Although these trees will not be as large as the trees lost, they will be planted on the Subject Property and provide some immediate benefit, ultimately replacing the canopy lost by the removal of these trees. There is some disturbance within the CRZ of seven trees; however, they will receive adequate tree protection measures, their roots will regenerate, and the functions they currently provide will continue. Therefore, no mitigation is recommended for trees that are impacted but retained. As conditioned, the mitigation trees will be protected as part of a 5-year maintenance and management agreement. The planting locations of the 36 variance mitigation trees are shown on the FFCP.

Variance Recommendation

Staff recommends approval of the variance request.

SECTION 8: CONCLUSION

As conditioned, the Preliminary Plan Amendment, Site Plan Amendment, and Forest Conservation Plan applications each satisfy the required findings of County Code Chapters 50, 59, and 22A, respectively. Therefore, Staff recommends approval of Preliminary Plan Amendment 12022016A, Site Plan Amendment 82022022A, and Forest Conservation Plan No. F20240120.

ATTACHMENTS

Attachment A: Preliminary/Site & Floating Zone Plan Amendment/FCP Plan

Attachment B: Prior Approvals

Attachment C: Agency Letters

ATTACHMENT B

Clerk's Note: The resolution number was inadvertently listed as 19-1238. The duplicate resolution number was changed to 19-1308.

Resolution No.:	<u>19-1308</u>
Introduced:	<u>June 14, 2022</u>
Adopted:	<u>June 14, 2022</u>

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: APPLICATION NO. H-143 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Erin Girard, Esquire, Attorney for the Applicant, EYA Development LLC and BL Strathmore LLC; OPINION AND RESOLUTION ON APPLICATION; 4920 Strathmore Avenue, more particularly known as Parcel No. 045, Parcel B, Garrett Park Academy of the Holy Cross, as shown on Plat No. 20824, and all of the property located at 4910 Strathmore Avenue, more particularly known as Parcel N875, Parcel A, Garret Park- Holy Cross Convent, as shown on Plat No. 9347; Tax Account Nos. 04-03234564 and 04-00045122

OPINION

On August 4, 2021, EYA Development, LLC (“Applicant” or “EYA”) filed Local Map Amendment (LMA) application (H-143) requesting the rezoning of the property located at 4910/4920 Strathmore Avenue (the “Property”) in North Bethesda, Maryland from its current R-60 Zone (detached residential) to CRNF 0.75, C 0.25, R 0.75, H 50 (Commercial Residential Neighborhood- Floating). Exhibit 1. The property is currently improved by Garrett Park Academy of the Holy Cross (Parcel B), and Garret Park- Holy Cross Convent, or St. Angela’s Hall (Parcel N875/Parcel A), a vacant and unoccupied retirement home for nuns. If approved, the proposed development of the property will include 125 single-family dwelling units (including a minimum of 15% MPDUs) and a 145-bed residential care facility.

On December 6, 2021, Staff of the Montgomery County Planning Department (Planning Staff or Staff) issued its revised report recommending approval of the application with binding elements. Exhibit 62. The Planning Board agreed with Staff and recommended approval on December 17, 2021. Exhibit 61. OZAH’s public hearing proceeded as noticed on January 31, 2022 and concluded on February 1, 2022. Six (6) witnesses testified for the Applicant: Jack Lester (Applicant), Brenda Bacon (Brandywine Living), Jeff Amateau (civil engineer), Joshua Sloan (land planner), Katie Wagner (traffic engineer), and Jack McLaurin (architect). Community members Katie Prebble and Sister Ruth Marie Nickerson also testified in support of the application. Mr. David Shaffer, Esq. appeared on behalf of Garrett Park Estates and White Flint Civic Association. Community members testifying in opposition included: Douglas Burdin, Kip

Edwards, Arthur Ribeiro, Vanessa Lide, Cynthia Weitz, and Gerilee Bennett, a town councilmember representing the Town of Garrett Park. The Hearing Examiner left the record open until February 11, 2022. Several additional exhibits were received during this period and marked and admitted without objection as evidentiary exhibits. The Hearing Examiner issued a report recommending approval on April 6, 2022. The Hearing Examiner reopened the record to receive the revised Floating Zone Plan with binding elements, entered into the record as Exhibit 88.

To avoid unnecessary detail in this Opinion, the Hearing Examiner's Report is incorporated herein by reference. Based on its review of the entire record, the District Council finds that the application meets the standards required for approval of the requested rezoning for the reasons set forth by the Hearing Examiner.

Subject Property

The subject property is located at 4910/4920 Strathmore Avenue, immediately south of the intersection of Strathmore Avenue and Stillwater Avenue. Exhibit 62, p. 4. The two areas proposed for rezoning under this LMA are Parcel A, which is currently improved with the former St. Angela's Hall (approximately 38,000 square feet) with two driveway entrances on Strathmore Avenue, surface parking, outdoor amenity spaces, pedestrian paths, and open lawn areas, and a portion of Parcel B, which is currently improved by a school site known as the Academy of the Holy Cross, a Catholic high school for girls, consisting of various school buildings and athletic fields. *Id.*

The entire property including all of parcels A and B is approximately 38.22 acres in size. Exhibit 62, p. 4. The portion subject to this rezoning application (hereinafter the "site"), comprised of all of Parcel A and a portion of Parcel B, is approximately 15.36 acres (669,082 square feet) under common ownership. *Id.* The building and driveways for the existing but closed and vacant St. Angela's Hall are located on the high point of the site and slope down to a nearby tributary of Rock Creek and associated wetlands along the western, southern, and eastern sides of the property. *Id.* The main existing school site, which will remain unchanged under this application and is not subject to rezoning, is further improved by buildings, lawn, athletic fields, driveways, and parking areas. The property is currently zoned R-60. *Id.*

Surrounding Area

The Staff-defined neighborhood includes the community of single-family detached homes that front the property to the north across Strathmore Avenue (Garret Park Estates), the single-family attached neighborhood to the west (Symphony Park townhouse community), institutional uses abutting the property to the south and east (The Music Center at Strathmore and The Mansion at Strathmore), and a public transit station (Grosvenor-Strathmore Metro Station). Exhibit 62, p. 4; Exhibit 34, p. 5. Other surrounding uses include nearby public and private schools and a church. Exhibit 34, p. 5. Three public parks or playgrounds are also nearby: Garrett Park Estates Local Park, Druid Drive Neighborhood Park, and Garrett Park – Waverly Park. Exhibit 62, p. 4.

The Hearing Examiner concurred with the delineation of the surrounding area as described by Staff and the Applicant. The Hearing Examiner further characterized the area as predominantly

residential with single-family detached and single-family attached homes with institutional uses to serve the surrounding community. *Hearing Examiner's Report*, p. 9.

Proposed Development

The subject application seeks to rezone this R-60 property to CRNF 0.75 C-0.25 R-0.75 H-50, (Commercial Residential Neighborhood-Floating). Private roads, open spaces, environmental conservation areas, and infrastructure will also be implemented through the redevelopment process with access to the Academy of the Holy Cross maintained but redesigned through the redevelopment. Exhibit 34, p. 4. Following approval of the rezoning, future development on the site will relocate the entry drive, replace St. Angela's Hall on Parcel A with a 145- bed residential care facility owned and operated by Brandywine Living, and up to 10 detached single-family dwellings and 115 attached townhouse units on the area currently occupied by athletic fields and landscaped lawns, for a total of 125 single-family dwelling units (including a minimum of 15% MPDUs). Exhibit 34, p. 9. No commercial uses are proposed and a prohibition on commercial uses is listed as a binding element to this application. Exhibit 34, p. 19. The property's existing R-60 zone only allows townhouses by limited or conditional use and residential care facilities by conditional use only, therefore, the Applicant is seeking to rezone the property to the CRNF zone to permit both uses by right as a comprehensive project. Exhibit 53, p. 2. The FZP contains six binding elements that will permanently restrict future development:

1. Permitted uses on the Site include up to 125 single-family detached and attached dwelling units (including a minimum of 15% MPDUs) and a residential care facility (with up to 145 beds).
2. Commercial uses are not permitted on the Property, except permitted accessory uses associated with the residential care facility.
3. A natural surface trail must be provided along the western side of the Site that is subject to a public access easement
4. The Property is limited to no more than three points of vehicular access from Strathmore Avenue.
5. The Property must be subdivided to delineate the boundary of the area subject to the rezoning at the time of Preliminary Plan.
6. A Phase I Noise Analysis must be submitted with the Preliminary Plan to identify noise levels that might impact interior and exterior spaces subject to the Planning Department's Noise Guidelines. The analysis must be performed by a qualified acoustical engineer. If a combined Preliminary/Site Plan is submitted, the Site Plan must include recommendations from a qualified acoustical engineer to mitigate excessive noise levels per the Noise Guidelines.

Criteria for Approval

To approve an LMA, the District Council must find that the proposal will meet the standards required by the Zoning Ordinance and that it will be consistent with the coordinated and systematic development of the Regional District. See, *Md. Land Use Art.*, §21-101(a) and (b). While many of the site-specific requirements for development are addressed by later approvals, the Zoning Ordinance contains various standards, or "Necessary Findings," that the Council must make. See,

Zoning Ordinance, §59.7.2.1.E. These standards incorporate the requirements of other sections of the Zoning Ordinance, and most fall within three main categories: (1) conformance with the Master Plan, (2) compatibility with the surrounding area and adjacent properties, and (3) whether the project is supported by adequate public facilities.

Conformance with the Master Plan¹

The entirety of the subject property falls within the boundaries of the *1992 North Bethesda/Garrett Park Master Plan* (“Master Plan” or “Plan”). Exhibit 62, p. 17. The Master Plan area is bordered by I-270 to the west, the City of Rockville to the north, Rock Creek Park to the east, and I-495 to the south. *Id.* The subject property is listed as one of the “Key Vacant or Redevelopable Parcels” in the Plan area, or Parcel #14. Exhibit 34, p. 12.

The Master Plan lays out both general recommendations for the Master Plan area and specific recommendations for the subject property. According to Staff, the proposed rezoning will support the objectives of the plan “to encourage land use patterns that preserve and increase the variety of the housing stock particularly with elderly housing, provide safe and efficient transportation, provide facilities to meet the recreational needs of the public, and reduce environmental impacts.” Exhibit 62, p. 17. General recommendations of the Plan include: focusing future development at Metrorail stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing; reduction in block sizes in the vicinity of Metro areas; improvements to the pedestrian friendliness of streets, particularly near transit nodes; and provision of a landmark quality and sense of place for nodal areas and districts. *Id.* Staff opined that the proposed development supports these objectives as it “achieve[s] this critical land use and transportation linkage” by providing residential housing to replace a vacant retirement home and “deliver more housing than was previously on the Site” while accessible to nearby rail service at the Grosvenor-Strathmore Metrorail Station, public bus stops and routes that traverse Strathmore Avenue, coupled with the construction of an “internal system of new private roads that create short, walkable blocks.” *Id.* Based on her experience with other Brandywine sites, Ms. Bacon testified that many employees of the Brandywine residential care facility will likely use public transit for their daily travel to and from work. T. 57. The Applicant testified that the provision of housing is repeated as a primary objective throughout the plan, which calls for development of “[a] wide range of housing types within each neighborhood...to avoid large concentrations of any single type and increase the potential for pedestrian connection between diverse housing types,” “preserv[ing] and increase[ing] the variety of housing stock, including affordable housing” and “encourag[ing] a mixture of land uses in redeveloping areas to promote variety and vitality.” Exhibit 53, p. 5, citing the Master Plan at pp. 12, 33, 35.

In addition to general recommendations, the Master Plan also includes recommendations specific to 4910/4920 Strathmore Avenue. Exhibit 62, p. 18. Listed as Parcel No. 14, the Plan

¹ Section 59-7.2.1.E.2.a. of the Zoning Ordinance requires the District Council to find that the FZP “substantially conforms with the recommendations of the applicable master plan, general plan, and other applicable County plans.” Section 59-7.2.1.E.2.b requires the FZP to be “in the public interest,” which includes a review of conformity with County plans and policies and whether the development will be consistent with the coordinated and systematic development in the Regional District under State law. Section 59-7.2.1.E.2.c requires the application to satisfy the intent of Floating Zones. The intent of Floating Zones incorporates compliance with the applicable master plan. *Zoning Ordinance*, §59-5.1.2.A.1.

identifies the 35+ acre tract for the Academy of the Holy Cross which includes the school buildings, athletic fields, and a former group home for retired nuns. Exhibit 62, p. 18 (citing the Master Plan, pp. 80-81). Also linking to nearby transit, Staff notes that the Plan “supports the continued existence of the Academy and the retirement home at this location and recommends that the existing R-60 zoning be confirmed.” *Id.* Staff opines that the application satisfies this specific objective by retaining the Academy of the Holy Cross School but replacing the now vacant retirement home with a new but analogous use as a residential care facility for seniors, and adding residential housing as infill development in a previously unimproved portion of the lot, all within proximity to a transit node. Exhibit 62, p. 18. The Plan specifically recommended retaining the Academy of the Holy Cross because of its proximity to excellent transit. Exhibit 34, p. 13.

The Master Plan also emphasizes other objectives for 4910/4920 Strathmore Avenue including “preserving green areas and institutional open space for environmental protection, wildlife sanctuary, recreation, and visual relief.” Plan, p. 81. Staff notes that portions of the existing open lawn areas on the property are proposed to be protected through Conservation Easements with native plantings that can provide water quality protection, wildlife habitat, and visual relief from the surrounding development. Exhibit 62, p. 18. Portions of these conservation easements are proposed to be located along a planned nature trail located along the western edge of the property which will be open to the public during daylight hours. *Id.*

Staff further noted that the proposed development will “complement the existing sense of place” created by the surrounding residential neighborhoods to the north and west and educational and institutional spaces to the southwest and east. Exhibit 62, p. 17. Staff concluded that the proposed development “aims to fit within the existing neighborhood fabric of this well-established community while also delivering exceptional urban design and architectural detailing to further articulate quality.” *Id.*

According to Staff, the Master Plan “makes significant recommendations to encourage and support transit use, including expansion to the public transportation system.” Exhibit 62, p. 19. The Master Plan recommends that “future development be focused on Metrorail (Metro) stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing.” *Id.*; citation to Master Plan, unknown. Staff notes that the proposed site is in close proximity to existing transit services including bus and rail services and the application includes: improving access to transit services through upgrading pedestrian and bicycle infrastructure along the corridor; constructing a new master-planned 10-foot-wide shared use path along Strathmore Avenue to support walking to the nearby Grosvenor-Strathmore Metrorail Station; construction of a new internal road and pathway system with five-foot wide asphalt sidewalks throughout the Site’s new roads and natural surface trail along the western edge of the Property. *Id.* With respect to public transit, Mr. Sloan added that Ride-On Routes 5 and 37 run along Strathmore Ave while Routes 37 & 46 run along Rockville Pike. Exhibit 34, p. 6. Further, he estimated that “the Garrett Park MARC station is a 12-minute walk to the northwest and the Grosvenor-Strathmore Metro Red Line Station is a 10-minute walk along the trails in Symphony Park and the Music Center at Strathmore.” *Id.* Mr. Douglas Burdin, a community member, testified that because of the site layout, residents living in this new development would be required to use Strathmore Avenue and a walking path in Symphony Park to access the Metro station, as the planned development does not contain a cut-through connecting to Cloister Drive or Tuckerman Lane. T. 340-341. Mr. Burdin

estimated this walk-time to be between 13-18 minutes. *Id.* Mr. Burdin estimated this same walk-time to the Garrett Park MARC station. *Id.*

Both the Hearing Examiner and Staff agreed that the proposed development substantially conforms to the Master Plan. The Hearing Examiner concluded that the the proposed rezoning supports the general objectives of the North Bethesda/Garrett Park Master Plan, and satisfies the intent and standards of the floating zone by furthering the goals of the Plan to provide housing near public transit and mixed-use nodes, and furthers the public interest by advancing the goals and objectives of the Master Plan. *Hearing Examiner's Report*, p. 27. Based on this record, the District Council agrees with the Hearing Examiner and so finds.

Compatibility

Several sections of the Zoning Ordinance require the District Council to decide whether the FZP is compatible with adjacent uses and the surrounding area.² The Hearing Examiner found that the proposed development will be compatible with adjacent properties and the surrounding area. *Hearing Examiner's Report*, p. 30. The Hearing Examiner found that the proposed residential care facility will replace and provide necessary improvements to the previous retirement home with an updated residential care facility to serve seniors. *Id.* The FZP utilizes the site's topography to mitigate the height, size, and impact of the proposed buildings, as the lot slopes east to west. T. 150; *See* Exhibit 40. Further, the proposed residential housing serves the needs of increased residential housing demand as identified in the Master Plan, by providing single-family housing specifically located in close proximity to public transit at the Grosvenor-Strathmore Metro station, Garrett Park MARC station, and bus routes. *Hearing Examiner's Report*, p. 30. The District Council agrees and finds that the FZP will be compatible with the surrounding area.

Adequacy of Public Facilities/Public Interest

The District Council must also find that public facilities will be adequate to serve the FZP. While a more detailed review will occur later in the development process, a threshold analysis must be performed at the rezoning stage.³

² The application must satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter. *Zoning Ordinance*, §59.7.2.1.E.1.c. The intent of the Floating Zones requires the applicant to “ensure protection of established neighborhoods” by “establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses” and “providing development standards and general compatibility standards to protect the character of adjacent neighborhoods.” *Id.*, Section 59.5.1.2.C.1 and 2. One purpose of the Commercial/Residential Floating Zones (which includes the CRNF Zone), is to “provide development that is compatible with adjacent development.” *Id.*, 59.5.3.2.C. Finally, §59.7.2.1.E.2.f states that “when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, [it must] not adversely affect the character of the surrounding neighborhood.” Because the property falls within a Residential Detached Zone (the R-60 Zone), this provision applies as well.

³Section 59.7.2.1.E.2.e requires that an Applicant demonstrate that traffic generated from the proposed development “does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board’s LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts . . .” The adequacy of other facilities is part of the Council’s determination that an application will be “in the public interest...” and that it be “it will be consistent with a coordinated and systematic development of the Regional District” under State law. *Zoning Ordinance*, §59-7.2.1.E.1.b; *Md. Land Use Art.*, §21-101(a) and

The FZP must comply with the Planning Board's Local Area Transportation Review (LATR) Guidelines. *Zoning Ordinance*, 59.7.2.1.E.1.c. According to Staff, the 2020-2024 Growth and Infrastructure Policy went into effect on January 1, 2021. Exhibit 62, p. 14. The scope of the Applicant's traffic impact study was approved by Staff in November of 2020 and as such, the transportation study for the Local Map Amendment was subject to the previous 2016-2020 Subdivision Staging Policy. *Id.* At the time of the review, the subject property was located within the North Bethesda orange policy area under the 2016-2020 Subdivision Staging Policy. *Id.* In this policy area, LATR compliance is required, and the Applicant submitted a traffic impact study to determine multimodal adequacy including both Critical Lane Volume (CLV) and Highway Capacity Manual (HCM) delay analyses. *Id.* Staff noted that Preliminary Plan will be subject to the 2020-2024 Growth and Infrastructure Policy (GIP) and a new transportation study will be required as part of that analysis.

The Traffic Study concluded that Critical Lane Volume (CLV) and Highway Capacity met the intersection congestion standards for the policy area. CLVs are 1,550 and the HCM analysis measured 71 seconds of delay per vehicle. Both are "within acceptable levels of congestion." Exhibit 62, p. 14. The traffic study further concluded congestion standards met the LATR requirements even though existing delays for the Stillwater Avenue and Strathmore Avenue intersection exceed the 71 second delay standard. Staff concluded that the proposed realignment of the driveway for the Academy of the Holy Cross and construction of a new driveway at the Stillwater Avenue approach will accommodate school traffic during the AM peak hour sufficient to mitigate the capacity delay. Exhibit 62, p. 14. Staff concluded that the traffic study demonstrates that "all intersections within the study area will operate within the policy area's congestion standards." *Id.* The Hearing Examiner found that adequate public facilities are met under this application and that the FZP furthers the public interest by implementing the comprehensive planning objectives contained in the Master Plan to support diverse residential housing options in close proximity to public transit. *Hearing Examiner's Report*, p. 35. The Hearing Examiner further noted that "at the rezoning stage the Council must determine only that the development complies with traffic and transit congestion standards set by the LATR and the Annual Growth Policy, unless there is some evidence that other public facilities cannot be provided" and concluded that the methodology used in the Traffic Study was credible and there was no credible evidence suggesting that LATR requirements were not satisfied by this application or that other public facilities will be insufficient to meet demand. *Id.* The District Council agrees and finds that public facilities will be adequate to serve the FZP.

Mr. Kip Edwards, a member of the community, testified that the community had concerns regarding the credibility of the traffic study. purchased a traffic counting software service called Camlytics that uses "machine learning to count cars which enter and exit the frame" to conduct their own lay analysis. T. 249. Mr. Edwards testified that the Camlytics analysis resulted in a traffic count that was "much higher than the numbers used in the August 2021 LATR supplemental report, which is what planning board staff ultimately relied on when they met their conclusions." T. 250. Ms. Wagner responded that she reviewed the video and compared the video recorded by the community with her own analysis and "found that the spreadsheet overexaggerated the number of

(b). The intent of the Floating Zones is to "implement comprehensive planning objectives by...ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure..." *Zoning Ordinance*, §59-7.2.1.E.1.b; 59-5.1.2.A.2.

vehicles traveling along Strathmore Avenue.” T. 162. Ms. Wagner also noted that the video was “not collected on a typical weekday as required by the park and planning staff.” Id. Staff noted that future traffic analysis will be completed in accordance with the updated 2020-2024 Growth and Infrastructure Policy, with the property now in a different policy area (*i.e.*, the Grosvenor Policy Area) and subject to those requisite standards. *Id.*

Mr. Douglas Burdin, a community member, also expressed concern about the “massive delays” noted in the LATR study and the supplemental analysis with respect to the studied intersections, and the reliability of the proposed traffic mitigation measures (e.g. traffic signal, turn lane, realignment of Stillwater) proposed to alleviate that delay and congestion. T. 342.

The Hearing Examiner characterized the community’s traffic concerns as “real, sincere, well-considered, and reasonable”, but found the weight of the evidence in the Applicant’s favor, stating:

...at the rezoning stage the Council must determine only that the development complies with traffic and transit congestion standards set by the LATR and the Annual Growth Policy, unless there is some evidence that other public facilities cannot be provided. While the Hearing Examiner shares the reservations of community members with regard to traffic congestion on an instinctual level, as the development proposes dense residential uses on previously unimproved land and a vacant building, Ms. Wagner’s methodology was sound and her testimony was credible with regard to the LATR study, the supplemental analysis, and the conclusions drawn from that study.

The Council finds that the Traffic Impact Study and Supplemental Analysis in the record are the best, most reliable evidence that the application will meet the LATR Guidelines and finds the evidence sufficient to approve the rezoning of the property. Further review will occur at subdivision under the current Growth and Infrastructure Policy will occur at subdivision.

The Intent of Floating Zones (§59.5.1.2)

The District Council must determine whether the FZP fulfills the intent of the Floating Zones. Several of these have already been addressed.⁴ The remaining include (from Section 59-5.1.2):

Section 59-5.1.2.A.3. Implement comprehensive planning objectives by:

3. allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property; and

⁴ The intent of Floating Zones contained in Sections 59-5.1.2.A.1 and 2 and 59-5.1.2.C of the Zoning Ordinance has already been addressed in the Council’s findings relating to the compatibility of the FZP with surrounding uses and the adequacy of public facilities. The balance of the Floating Zone intent clauses are discussed here.

The Hearing Examiner found that the FZP utilizes the design flexibility provided by the Floating Zones to integrate the development compatibly with surrounding uses by employing design strategies to mitigate the visual impact of the proposed single-family homes and the residential care facility, and expanding access points for vehicular and pedestrian safety and efficiency of access to eliminate queuing and traffic congestion, thereby satisfying the intent of a floating zone in furtherance of the public interest. From this record, the District Council finds, as did the Hearing Examiner, that the proposed FZP satisfied the intent of Floating Zones.

Section 5.1.2.B. Encourage the appropriate use of land by:

- 1. providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;*
- 2. allowing various uses, building types, and densities as determined by a property's size and base zone to serve a diverse and evolving population;*
- 3. ensuring that development satisfies basic sustainability requirements, including open space standards and environmental protection and mitigation; and*

The FZP will provide diverse housing options for families and seniors which supports Master Plan goals for single-family residential and senior housing, and self-limits with a restriction on commercial uses and a density below the maximum permitted under zone regulations. The District Council finds that the development proposed meets this intent, as did the Hearing Examiner.

Purpose of Commercial/Residential Floating Zones (Section 59.5.3.2)

The purpose of the Commercial/Residential Floating zones is to:

- A. allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;*
- B. allow flexibility in uses for a site; and*
- C. provide mixed-use development that is compatible with adjacent development.*

The District Council has already addressed the third purpose (*i.e.*, providing compatible development) above. The Hearing Examiner found that that the FZP furthers the other purposes of commercial/residential floating zones. Binding elements limiting the use of the property to density, height, and restriction on commercial uses will further ensure compatibility with adjacent development and the surrounding area. The CRNF Zone allows the flexibility to incorporate a new building to replace an aging one, and to provide diverse infill housing to a previously unimproved site in a manner compatible with the surrounding area while minimizing environmental impacts through open space requirements, conservation easements, and protection of two stream valley buffers. *Hearing Examiner's Report*, p. 40. The CRNF Zone allows the

flexibility to incorporate a new building into a developed site in a manner compatible with the surrounding area while minimizing environmental impacts. The District Council agrees with this analysis and finds that the FZP proposed meets the purposes of the Commercial/Residential Floating Zone.

The Applicability of the Zone (Section 59.5.1.3.)

Section 59.5.1.3. of the Zoning Ordinance sets up a series of threshold tests to determine whether a site may apply for a Floating Zone.⁵ Because the Master Plan does not recommend a Floating Zone for this property and the property is in a Residential Detached Zone, it must meet the following prerequisites (*Zoning Ordinance*, §59.5.1.3.C.2.b):

- i. The property must front on a nonresidential street or must confront or abut a property that is in a Residential Townhouse, Residential Multi-Unit, Commercial/Residential, Employment, or Industrial zone; and
- ii. The application must satisfy a minimum of 2 prerequisites for each of the categories under Section 5.1.3. D., Section 59.5.1.3. D. Prerequisites.

The Hearing Examiner found that the FZP meets these prerequisites. The Staff Report and the Hearing Examiner's Report set forth in detail the reasons the application meets the additional requirements of Section 59.5.1.3. Having no evidence to the contrary, the District Council finds that the FZP meets the applicability standards of the Zoning Ordinance.

Uses and Building Types Permitted (Section 59.5.4.3 and 59.5.4.4)

Section 59.5.3.3A.2 of the Zoning Ordinance permits "only" those uses permitted in the CRN Zone in the CRNF Zone. Detached residential, attached residential, and residential care facilities are all permitted uses in the CRN and, therefore, the CRNF zone, as proposed under this application. Under 59.5.3.4.A., "[a]ny building type" is permitted in the Commercial/Residential Floating Zone, therefore, the FZP meets this standard. The District Council finds that the use and building type proposed meet these standards.

Development Standards of the Zone (Section 5.3.5)

Staff concluded and the Hearing Examiner found that the FZP meets the development standards of the CRNF Zone. Based on this evidence, the District Council agrees with the finding of the Hearing Examiner that the application meets the development standards of the CNRF Zone.

⁵ Section 59-5.1.3.A prohibits placement of a Floating Zone on property currently in an Agricultural or Rural Residential Zone. As this property is zoned R-60, a Residential Detached Zone and NR, and Employment Zone, that section does not apply.

Conclusion

Based on the foregoing analysis and after a thorough review of the entire record, including the Hearing Examiner's Report issued April 6, 2022, the District Council concludes that the proposed reclassification and development will meet the standards set forth in the Zoning Ordinance, and that it will be consistent with the coordinated and systematic development of the Regional District under State law.

ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland, approves the following resolution:

Local Map Amendment Application No. H-143, requesting reclassification of the property located at 4910/4920 Strathmore Avenue (the "Property") in North Bethesda, Maryland, Tax Account Nos. 04-03234564 and 04-00045122, from its current R-60 Zone (detached residential) to CRNF 0.75, C 0.25, R 0.75, H 50 (Commercial Residential Neighborhood-Floating)., is hereby **approved** subject to the specifications and requirements of the revised Floating Zone Plan (Exhibit 88), provided that the Applicant files an executed Declaration of Covenants reflecting the binding elements in the land records and submits to the Hearing Examiner for certification a true copy of the Floating Zone Plan approved by the District Council within 10 days of approval, in accordance with §§59.7.2.1.H.1.a. and b. of the Zoning Ordinance.

This is a correct copy of Council action.



Judy Rupp
Clerk of the Council



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DEC 28 2021

MCPB No. 21-133
Forest Conservation Plan No. H-143
4910-4920 Strathmore Preliminary Forest Conservation Plan
Date of Hearing: December 16, 2021

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 22A, the Montgomery County Planning Board is authorized to review forest conservation plan applications; and

WHEREAS, on August 5, 2021, EYA Development LLC (“EYA”) and BL Strathmore LLC (“Brandywine”) (“Applicant”) filed an application for approval of a preliminary forest conservation plan on approximately 39.46 acres of land located at 4910-4920 Strathmore Avenue (“Subject Property”) in the 1992 North Bethesda/Garrett Park Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s forest conservation plan application was designated Forest Conservation Plan No. H-143, 4910-4920 Strathmore Preliminary Forest Conservation Plan (“Forest Conservation Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board Staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board dated November 8, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on December 16, 2021, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board approved the Application subject to certain conditions, by the vote certified below.

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www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc.org

Approved as to
Legal Sufficiency: /s/ Emily Vaias
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Forest Conservation Plan No. H-143 on the Subject Property, subject to the following conditions:¹

1. The Applicant must obtain approval of a Final Forest Conservation Plan ("FFCP"), for the entire Property (39.46 acres, consisting of Parcels A and B, plus off-site disturbance, with approved deductions), concurrently with the first Site Plan approval.
2. Prior to certification of the Preliminary Forest Conservation Plan ("PFCP"), the Applicant must correct the Forest Conservation worksheet to remove the deduction for off-site improvements and adjust the required Total Afforestation and Reforestation accordingly.
3. The Final Forest Conservation Plan must:
 - a. Be substantially consistent with the approved PFCP;
 - b. Show the planting locations of at least 114.95 total caliper inches of native shade trees, each at least three caliper inches (3"), to mitigate the removal of twelve (12) variance trees;
 - c. Include measures to enhance the stream buffer function including invasive species management, as well as other techniques such as buffer averaging and/or enhanced forestation; and
 - d. Update the Tree Variance request, if necessary, to determine the disposition of other variance trees.
4. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
5. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
6. Prior to recordation of the plat and the start of any demolition, clearing, grading, or construction for this development Application, the Applicant must record a Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
7. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the three (3.0) acres of new forest planting and for the mitigation

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successor in interest to the terms of this approval.

- trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FFCP.
8. Prior to the start of any demolition, clearing, grading or construction for this development Application, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FFCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 9. Prior to the start of any demolition, clearing, grading or construction for this development Application, the Applicant must install the permanent conservation easement fencing along the perimeter of the conservation easements as shown on the FFCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 10. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must submit a five-year Maintenance and Management Agreement ("MMA") in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FFCP. The MMA includes invasive species management control measures. All proposed measures should be chosen with consideration of the proximity to the on-site stream and wetlands and the sensitive nature of this watershed. The use of herbicides should be avoided where possible.
 11. The Applicant must install the Afforestation/Reforestation plantings in Planting Areas 1, 2, 3, and 4, as shown on the approved FFCP, within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 12. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, the Applicant must plant the variance tree mitigation plantings totaling at least 114.95 caliper inches using a minimum tree size of 3 caliper inches. The variance tree mitigation plantings must be installed as shown on the FFCP or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 13. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

- 1. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A, and ensures the protection of environmentally sensitive features.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law, Chapter 22A ("FCL").

The Net Tract Area is 39.46 acres, which includes the area of Parcels A and B, plus off-site disturbance required for the construction of utilities and frontage improvements, minus areas of roadway easement. The afforestation threshold for the CRN zone is 15% of the Net Tract Area, or 5.92 acres, and the Conservation Threshold is 20%, or 7.89 acres. The Applicant proposes to clear 0.49 acres of existing forest and retain 3.57 acres, resulting in a combined reforestation and afforestation mitigation requirement of 2.84 acres. Fulfillment of the mitigation requirement is proposed to be accomplished through planting new forest on site.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to fifteen (15) Protected Trees as identified in the Staff Report. Twelve (12) trees will be removed and three (3) trees will be protected. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board finds that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property for single-family and senior living units, without the Variance.

The Board makes the following findings necessary to grant the Variance:

- 1. Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The proposed design responds to the multiple site constraints and is consistent with the proposed zoning and Master Plan

recommendations; thus, granting the variance will not confer a special privilege to the Applicant.

- 2. The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is based on the constraints of the Property, access requirements, required utility connections, stormwater management facilities, grading and other engineering challenges, rather than on conditions or circumstances which are the result of actions by the Applicant.

- 3. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the proposed design and constraints on the Subject Property and not as a result of land or building use on a neighboring property nor on other portions of the overall Property not being rezoned.

- 4. Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

Removal of the twelve (12) Protected Trees is conditioned on mitigation that approximates the form and function of the trees removed. Therefore, their removal will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being impacted will remain to provide the same level of water quality protection as they currently provide.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves replacement of Protected Trees at a ratio of approximately one inch replaced for every four inches removed, using planting stock of no less than 3 inches caliper, each. No mitigation is required for Protected Trees impacted but retained.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board in this matter, and the date of this Resolution is DEC 28 2021 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Cichy, seconded by Commissioner Verma, with Chair Anderson and Commissioners Cichy, Patterson, and Verma voting in favor of the motion, and Commissioner Rubin absent at its regular meeting held on Thursday, December 16, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-118
Preliminary Plan No. 120220160
4910-4920 Strathmore Avenue
Date of Hearing: December 15, 2022

JAN 05 2023

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on March 30, 2022, SAH Homes Associates, LLC and BL Strathmore LLC, c/o EYA Development LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create 114 buildable lots and twenty (20) parcels for private roads, alleys, and open space on 15.35 acres of land in the CRNF-0.75, C-0.25 R-0.75 H-50’ zone, located at 4910-4920 Strathmore Avenue, Kensington, MD (“Subject Property”), in the Red Policy Area and 1992 *North Bethesda/Garrett Park Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120220160, 4910-4920 Strathmore Avenue (“Preliminary Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 5, 2022, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on December 15, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Piñero, seconded by Chair Zyontz, with a vote of 4-1; Chair Zyontz, Commissioners Branson, Piñero and Presley voting in favor, with Commissioner Hill voting against.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120220160 to create 114 buildable lots and twenty (20) parcels for private roads (Street A, Street B, and Street C), alleys, and open space on the Subject

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Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

Property, subject to the following conditions:¹

General Approval

1. This Preliminary Plan is limited to 482,000 square feet of residential uses across 113 buildable lots for up to nine (9) single family detached dwelling units and 104 townhouses, and one (1) buildable lot for a 145-bed residential care facility, including commercial accessory uses² associated with the residential care facility, and a total of 15 open space parcels and five (5) private road and alley parcels.

Adequate Public Facilities and Outside Agencies

2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

Plan Validity Period

3. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and prior to the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

Outside Agencies

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated December 5, 2022 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations provided in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“MDSHA”) in its letter dated November 28, 2022 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations provided in the letter, which may be amended by MDSHA

¹ For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

² Principal commercial uses are prohibited.

if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

6. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration's requirements for access and improvements.
7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Water Resources Section in its stormwater management concept letter dated December 2, 2022 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations provided in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its letter dated September 9, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations provided in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
9. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("DHCA"), in its letter dated September 20, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations provided in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

10. The Applicant must comply with the conditions of County Council Resolution No. 19-1308 approving Local Map Amendment No. H-143, as may be amended.

Future Site Plan Approval Required

11. Before clearing or grading, except that associated with removal of the existing building on the Property, or before recording a plat for the Subject Property, the Applicant must receive Staff certification of a Planning Board-approved site plan. The number and location of site elements, including but

not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined through site plan review and approval.

12. If an approved site plan or site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan or site plan amendment.

Transportation

Existing Frontage Improvements

13. Prior to the issuance of the first above grade building permit, the Applicant must satisfy all necessary requirements of MDSHA (i.e. apply for the roadway improvement permit, obtain agency design approval, and post the bond for the project cost) to ensure construction of a ten-foot wide sidepath along the Property frontage on Strathmore Avenue.

Off-Site Improvements

14. Prior to the issuance of the first above grade building permit, the Applicant must ensure future construction of the following off-site improvement(s) by satisfying MDSHA requirements to construct a 10-foot wide sidepath on the south side of Strathmore Avenue that extends approximately 1,050 feet to the east of the Subject Property to the existing bus pad at the intersection with Flanders Avenue and 30 feet to the west between the off-site trail and the western Site boundary. In the event that MCDOT is unable to obtain the right-of-way required for the eastern off-site sidepath extension within 12 months of MCDOT's acceptance of the design, the Applicant must make a payment to MCDOT towards the construction of a pedestrian or bicycle improvement in the Red policy area equal to the cost of the side path's design, permit, construction and relocation of utilities, if any (excluding any costs associated with right-of-way acquisition). The payment will be inflated based on the Federal Highway Administration's National Highway Construction Cost Index from the mailing date of the Planning Board resolution to the date of application for the first above-grade building permit or right-of-way permit (whichever comes first).
15. Prior to the issuance of the final Use and Occupancy certificate, the Applicant must install a new traffic signal at the Center Site Driveway with Strathmore Avenue.

LATR

16. If, at the time the Applicant submits for permits to construct one of the required LATR Off-Site Improvements, the improvement is no longer necessary or desirable, because: i) it has been constructed or is under construction by another applicant or as part of a capital improvement project by a government agency, or, ii) the applicable master plan has changed and no longer requires or suggests the improvement, or iii) the necessary right-of-way has not been obtained, the Applicant can propose an alternative LATR Off-Site Improvement from the priority list of improvements provided in the subject Staff Report that is of similar value, and this alternative improvement, if reviewed and approved by Staff, can be substituted and shown on a revised Certified Site Plan.

17. Before issuance of the first above grade building permit, the Applicant must receive SHA access permits for the following modal deficiencies in accordance with the 2020–2024 Growth and Infrastructure Policy. All improvements must be constructed before issuance of the final Use and Occupancy permit or above grade building permit, whichever comes last.
 - a) Pedestrian System Adequacy Mitigation
 - i. Upgrade the existing curb ramp to meet ADA design standards at the Strathmore Avenue and the Center Site Driveway (north-south crossing), North side.
 - ii. Install a new protected pedestrian crossing and high visibility crosswalk, associated with the new traffic signal, at the Center Site Driveway with Strathmore Avenue (north-south crossing) for approximately 35 feet in length.
 - iii. Remove the existing sidewalk and narrow bridge, approximately 30 feet in length on Strathmore Avenue (south side) between western site boundary and trail to Tuckerman Lane, within the existing right-of-way, and replace with a ten-foot-wide sidepath.
 - iv. Construct a ten-foot-wide sidepath with a six-foot-wide landscaped street buffer along Strathmore Avenue (south side) for approximately 340 feet in length, from east of the eastern Site boundary to the Holy Cross Church and School driveway.
 - v. Construct a ten-foot-wide sidepath with a six-foot-wide landscaped street buffer along Strathmore Avenue (south side) for approximately 750 feet in length, from the Holy Cross Church and School driveway to the existing sidewalk on east side of Flanders Avenue.
 - vi. For the portion with deficient right-of-way (ROW) along Strathmore Avenue, MCDOT will work with the Applicant and MDSHA to acquire the necessary ROW. The Applicant will be

required to design, permit, and construct the necessary 10-foot-wide bicycle facility (unless MCDOT determines it cannot be constructed and will then become a 6-foot-wide sidewalk) or provide a fee-in-lieu payment for its design, permit and construction. In the event that MCDOT is unable to obtain the right-of-way required for the eastern off-site sidepath extension within 12 months of MCDOT's acceptance of the design, the Applicant must make a payment to MCDOT towards the construction of a pedestrian or bicycle improvement in the Red policy area equal to the cost of the side path's design, permit, construction, and relocation of utilities, if any (excluding any costs associated with right-of-way acquisition). The payment will be inflated based on the Federal Highway Administration's National Highway Construction Cost Index from the mailing date of the Planning Board resolution to the date of application for the first above-grade building permit or right-of-way permit (whichever comes first).

- vii. Install five (5) new streetlights along the south side of Strathmore Avenue from the eastern Site boundary to the eastern LATR study area boundary.

Private Roads

18. The Applicant must provide Private Roads and alleys identified as Street A, Street B, and Street C, including any sidewalks, bikeways, storm drainage facilities, street trees, streetlights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the "Private Roads"), subject to the following conditions:
 - a) If there are no structures above or below the Private Roads, the record plat must show the Private Roads in a separate parcel. If there are structures above or below the Private Roads, the record plat must clearly delineate the Private Roads and include a metes and bounds description of the boundaries of the Private Roads.
 - b) The Private Roads must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions as required by the Montgomery County Code with regard to private roads set forth at § 50-4.3.E et seq. The Covenant includes, but is not limited to the following requirements/conditions:
 - i) The Applicant, at its expense, shall design, construct, and maintain the Private Roads.

- ii) The Applicant, at its sole cost and expense, shall properly and continually maintain (including ordinary and capital maintenance and removal of snow, ice, litter, and other obstructions and hazards as soon as conditions reasonably allow), repair, and replace any portion of the Private Roads and all improvements located within the Private Roads, in good condition and repair for safe use and operation of the Private Roads. The Applicant must maintain a commercially reasonable budget (operating and capital, as applicable) to address both short-term and long-term maintenance, and reserves for capital repairs. The Applicant must provide certification of the reserves to the Planning Board or its Staff every two (2) years (or every five (5) years in the event there are no below-ground parking structures in the Private Roads). The reserves must be adequate to cover the costs of needed repairs.
 - iii) The Applicant must post and retain signage to notify the public that the Private Roads are not publicly maintained and to provide contact information to handle complaints, concerns or questions regarding the Private Roads.
- c) Before issuance of the first above grade building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Roads have been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.

Record Plats

19. There shall be no clearing or grading of the site prior to recordation of plat(s), with the exception of clearing and grading associated with the removal of the existing building on the subject Property.

Easements

20. The record plat must show necessary easements.

21. The record plat must reflect common ingress/egress and utility easements over all shared driveways.

Notes and Labels

22. The record plat must reflect all areas under common ownership.
23. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Book 28045 Page 578 ("Covenant").

Developments with MPDU's

24. The final number for 15% of MPDUs as required will be determined at the time of site plan approval.

Certified Preliminary Plan

25. The certified Preliminary Plan must contain the following notes:
 - a) *Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
26. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a) Show resolutions and approval letters on the certified set.
 - b) Provide cost estimates for the LATR off-site mitigation alternative project list.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or as provided in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

- 1. The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The Preliminary Plan creates 114 buildable lots for residential uses and 20 parcels for open space and private roads. The Preliminary Plan meets the dimensional requirements for the CRNF zone as specified in the Zoning Ordinance and as shown in Table 1 below, in relation to maximum density, height, and minimum open space. The final number, configuration, and location of parking spaces will be approved with the concurrent Site Plan based on the number of residential dwelling units and beds with the residential care facility.

Related to block design, Section 50.4.3.B.1.a. of the County Code states that: The length of a residential block must be compatible with existing development patterns and the land use goals for the area of the subdivision. The maximum length of a block is 1,600 feet. The longest block, Street C, is less than 1,000 feet; therefore, the Plan complies. Further, per Section 50.4.3.B.1.b., "Blocks must be designed with sufficient width to provide 2 tiers of lots. The Board may approve exceptions to block width design for blocks adjacent to heavy traffic ways, railroads, streams, drainage courses, or for land uses where it is appropriate to establish blocks with 1 tier of lots". The Application shows one tier of lots along the western and southern edges of the development. The Planning Board grants the request for an exception for tiers of lots based on the environmental constraints of the stream valley buffer. Overall, both the block and lot designs are appropriate for the development and uses therein.

Table 1: Preliminary Plan Data Table for CRNF Zone, Standard Method

Development Standard	Permitted/ Required	Approved
Tract Area		688,801 sf. (15.81 ac.)
Prior Dedication	n/a	19,952 sf. (0.46 ac.)
Proposed Dedication	n/a	n/a
Site Area	n/a	668,849 sf. (15.35 ac.)
Maximum Density of Development (CRNF-0.75, C-0.25, R-0.75, H-50)	Residential - 0.75 FAR/ (516,658 sf.) Commercial - 0.25 FAR (172,219 sf.)	Residential - 0.70 FAR/ (482,000 sf.) Commercial - 0 FAR (0 sf.)
Public Open Space (Residential Care Facility)	10% min. (19,438 sf.)	10.3% (20,000 sf.; 0.46 acres)
Common Open Space (Townhouses)	10% min. (44,000 sf.)	11.4% (50,000 sf.; 1.15 acres)
MPDU requirement	15% min.	15% (17 units)
Building Height	50 feet max.	50 feet
Accessory Structure Height	25 feet max.	25 feet
Minimum Lot Size	n/a ³	672 sf.
Maximum Lot Coverage	n/a ⁴	80%
Principal Building Setbacks⁴		
From Site Boundary – Strathmore Ave.	n/a ⁵	10 ft.
From Site Boundary – Side & Rear	n/a ⁶	50 ft.
Front setback	n/a ⁴	0 ft.
Side street	n/a ⁴	0 ft.
Side	n/a ⁴	0 ft.
Rear	n/a ⁴	0 ft.

³ Established by the concurrent Site Plan Application.

⁴ Setbacks to be finalized with Site Plan.

⁶ Established by the approved Floating Zone Plan – LMA No. H-143.

2. The Preliminary Plan substantially conforms to the Master Plan.

The Preliminary Plan substantially conforms to the recommendations within the *1992 North Bethesda/Garrett Park Master Plan* (“Master Plan”), as discussed below.

a) Land Use

Land Use & Zoning

The Master Plan puts forth sweeping recommendations for the Plan Area which include concentrating future development at Metrorail stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing; reducing block sizes in the vicinity of Metro areas; making pedestrian improvements, particularly near transit nodes; and providing a landmark quality and sense of place for nodal areas and districts. The Application satisfies these recommendations within the context of the Site by adding development near transit, improving transportation infrastructure for non-automobile modes, providing walkable blocks within the development, and using design best practices and construction materials to create a high-quality recognizable place that fits within the larger neighborhood.

The Master Plan includes recommendations specific to the Property which is listed as Parcel No. 14 (pages 80-81). The Plan identifies the 35+ acre tract for the Academy of the Holy Cross which includes the school buildings, athletic fields, and a former group home for retired nuns. Citing the students’ use of nearby transit, the Plan “supports the continued existence of the Academy and the retirement home at this location and recommends that the existing R-60 zoning be confirmed” (Page 81).

Following the Plan’s recommendation, the Application includes the retention of the Holy Cross School alongside of the redevelopment. However, with the closure of the St. Angela’s Hall retirement home, this part of the recommendation can no longer be fully realized. To meet the new realities while also respecting the Plan’s vision to capitalize on housing with adjacency to a transit node, the new housing includes townhouses and detached single-family units and elderly housing through a residential care facility.

The Master Plan also emphasizes other objectives for the Subject Property: “preserving green areas and institutional open space for environmental protection, wildlife sanctuary, recreation, and visual relief” (page 81). The Application seeks to address this environmental objective and others. Portions of the existing open lawn areas on the Site will be protected through Category I and Category II Conservation Easements with native plantings that can provide water quality protection, wildlife habitat, and visual relief from the surrounding development.

Density & Building Height

Per the approved Local Map Amendment (LMA) No. H-143, the Property is limited to a density of 0.75 FAR or 516,658 square feet of residential uses, whereas the Preliminary Plan will accommodate the redevelopment with 0.70 FAR or 482,000 square feet of residential uses. While 0.25 FAR of commercial use is permitted, no commercial is proposed.

The height of the single family detached homes, townhouses, and residential care facility is within the 50-foot height limit established by the LMA and certified Floating Zone Plan and will not exceed the existing heights of any existing structure on the Subject Property or those on the Academy of Holy Cross property.

Housing

The Master Plan recommends the provision of adult day-care facilities; the location of elderly housing and elderly support services along bus routes; the provision of affordable elderly housing through the special exception process; and support for the consideration of land in public ownership for affordable elderly housing. With the closure of St. Angela’s Hall retirement home and the need for elderly housing identified in the Master Plan, the Preliminary Plan Application will bring forth residential uses that fill a significant gap in the community’s existing housing stock.

Urban Form

The Master Plan emphasizes the design of existing and new streetscapes to encourage pedestrian usage, particularly along corridors that are within walking distance to transit and to address the lack of buffering adjacent to travel lanes for enhanced safety and comfort. Therefore, the Master Plan recommends the addition of street trees to create an appropriate buffer and the widening of sidewalks, and where necessary, additional special design treatment. The Project will upgrade the Strathmore Avenue frontage through the construction of the master-planned 10-foot-wide shared use path with a 6-foot-wide green buffer which will improve the pedestrian realm to reach various surrounding destinations, including the Holy Cross School and the Garrett Park Middle School. New private internal streets will include on-street parking and street trees between the curb and sidewalk.

Community Facilities

The Master Plan recommends that safe pedestrian access is provided to all school facilities. The Project includes a shared use path that will be extended off-site, when the right-of-way becomes available, and will assist in providing a walkable/bikeable facility that connects to abutting properties, including the Holy Cross Church and School. This improvement will provide a complete link to Rockville Pike and to an existing bus stop on Strathmore Avenue. Additionally, the new sidewalks along Street A will facilitate pedestrian movements to the south to access the Academy of the Holy Cross School.

Open Space

The *North Bethesda/Garrett Park Master Plan* broadly recommends providing green spaces in appropriate locations. A key element of this development is the various public open space and common open space spread across the Site to create gathering options, as well as flexible open lawns for passive and active recreation for future residents and the greater communities. These open spaces are designed in nodes along the primary access road through the Property to be highly visible and accessible via pathways and crosswalks.

To satisfy the public open space requirement for the residential care facility, the Project will provide 20,000 square feet (0.46 acres) across two areas along the east side of Street A at the intersection of Strathmore Avenue and at the

intersection of Street C with terraced seating. The location to the east of Street A is the main gathering space for the community. The third area is along the west side of Street A at the intersection of Street C.

To satisfy the common open space requirement for the townhouses, the Project is providing 50,000 square feet (1.15 acres) that stretches along two locations. The first area is along the rear of the townhouse units to the south and west of the Site. This area includes a section of the common open space that is located in between the townhouse units to the south and west of Street C which takes advantage of stormwater facilities that are intended to function as rain gardens and incorporates them as landscape amenities of the space. The second area of common open space is identified as the two (2) pocket greens to the west of Street A and will be framed by adjacent townhouses and landscaped areas.

These open spaces will be connected by an internal network of sidewalks and a natural surface trail as well as sidewalks external to the Property that connect to surrounding neighborhood uses. A natural surface trail along the western portion of the Site creates a pedestrian connection from Strathmore Avenue to the larger neighborhood along the stream valley. This connectivity with green spaces is consistent with the Master Plan's vision.

b) Environment

The *North Bethesda/Garrett Park Master Plan* makes environmental recommendations to restore environmental functions in the Plan area as it undergoes redevelopment (Pages 4 and 247):

- Protect the woodlands through land use recommendation and development guidelines,
- Create a system of greenways,
- Adopt a "green corridors" policy for North Bethesda roadways,
- Focus development at transit stations to improve air quality, and
- Address existing stormwater management problems, particularly at the time of new development.

The Application meets the recommendations of the *North Bethesda/Garrett Park Master Plan* as well as the intent of the Forest Conservation law, and the *Environmental Guidelines*. The subdivision contemplates broad environmental sustainability improvements, including preserving natural resources, improving water and air quality, and reducing carbon emissions.

As shown on the Final Forest Conservation Plan (FFCP), the Project follows the environmental regulations and guidelines for the protection of existing natural resources on the Site. While minimal forest will be removed and some specimen trees will be impacted, the Project will provide appropriate tree mitigation and satisfy afforestation and reforestation requirements. As a result, areas that are currently lawn will have some new tree cover.

Additionally, the Project follows the *Environmental Guidelines* as it relates to minor encroachments that are shown on the FFCP and permitted into a stream valley buffer under unique circumstances for the construction of the natural surface trail and stormwater management.

To address stormwater management and to protect and improve water quality, the Project will minimize imperviousness by applying permeable pavers along Street C, using micro-bioretenion areas and other techniques to assist with filtering and retaining water on-site and landscaping the redeveloped Site with native plants.

Overall, the Application is consistent with the *North Bethesda/Garrett Park Master Plan* and other applicable County plans and policies.

c) Transportation

Roads

The Master Plan's transportation objectives include providing a safe, attractive, and efficient transportation system to serve the recommended land use patterns, meet the mobility needs of the elderly and mobility-challenged, and provide a bicycle and pedestrian network as part of the transportation system (page 33). The Project will realign the existing access road with Stillwater Avenue (Street C) and add two new street connections (Street A and Street B). These private road additions help to create a network of interconnected streets that accommodate a range of users and various physical abilities. In accordance with the Applicant's justification for private roads per Section 50.4.3.E.4.a of the County Code, Streets A, B, and C will be private, as these streets are intended to only accommodate local circulation within the Project and the adjacent Academy of the Holy Cross, and do not provide transportation capacity for the general public. Additionally, these streets could not effectively function as public roads constructed to public standards because of approved modifications related to lane widths and green

panels. Vehicular access and circulation via a new internal road system meet the requirements of Chapter 49, Streets and Roads, and the Countywide Bicycle Master Plan.

Transportation

The Master Plan recommends that future development be focused on Metrorail (Metro) stops, new transit stations, and areas best served by transportation infrastructure, with more emphasis on housing. The Plan also encourages the location of elderly housing and elderly support services along designated bus routes or near Metrorail (page 244). The Project is located within close proximity to the Grosvenor-Strathmore Metrorail Station and there is existing bus route service and stops along the Site's Strathmore Avenue frontage, including a location at the entrance of the vacant St. Angela's Hall. New internal shortcuts to the Metrorail Station were evaluated by the Applicant but found infeasible due to ownership issues and environmental constraints. Therefore, the Project will provide sidewalks and buffered sidepath infrastructure for pedestrian, bicyclists, and other micro-mobility modes to safely access public transit services primarily by exiting the Site at Strathmore Avenue and then traversing Rockville Pike.

Transit

The Master Plan makes recommendations to encourage transit use, including major expansions to the public transportation system (page 2). The immediate area is well served by transit and the Subject Property is serviced by Ride On, with existing bus stops located along the Property's frontage with Strathmore Avenue. The Property is also approximately 1/3-mile walking and bicycling distance of the Grosvenor-Strathmore Metrorail station.

Additionally, according to the 2013 *Countywide Transit Corridors Functional Master Plan*, the Rockville Pike (MD 355) and North Bethesda Transitway Bus Rapid Transit projects each have a station planned at the Grosvenor-Strathmore Metrorail station.

The redevelopment will enhance existing sidewalks, bicycle facilities, and pedestrian lighting along Strathmore Avenue that will support increased access to nearby existing transit service.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

d) Roads and other Transportation Facilities

i. Master-Planned Roadways and Bikeways

As summarized in the preceding section, the Application will adequately address master-planned improvements for Strathmore Avenue. In accordance with the 1992 *North Bethesda/Garrett Park Master Plan*, Strathmore Avenue (MD 547) is designated as an Arterial, A-272, with a planned 80-foot right-of-way and a separated bikeway. According to the *2018 Bicycle Master Plan*, a ten-foot sidepath is designated along the southern frontage between Rockville Pike (MD 355) and Kenilworth Avenue. A sidepath along one side of the corridor is consistent with the Neighborhood Connector standards identified within the *Complete Streets Design Guide*. No sidewalk currently exists along the Strathmore Avenue Property frontage and along approximately 1,068-feet of Strathmore Avenue to the east, past the Flanders Avenue intersection. The Application proposes to construct the master planned 10-foot-wide sidepath with a minimum 6-foot-wide green panel, extending the existing sidepath from the west of the Property up to the eastern Property line.

ii. Pedestrian and Bicycle Facilities

The Application also includes the provision of a natural surface trail, that is sensitive to the on-site environmental features and provides a connection from the Property to the paths leading to the Metrorail Station to the west. This natural surface trail improvement exceeds the requirements in the Bicycle Master Plan. All pedestrian and bicycle facilities will be designed in accordance with MDOT SHA standards and the *2018 Bicycle Master Plan*, where applicable.

e) Local Area Transportation Review (LATR)

The approved Local Map Amendment application was previously reviewed under the 2016-2020 Subdivision Staging Policy (SSP) because it was filed before January 1, 2021, when Montgomery Council Resolution 19-655, the 2020-2024 *Growth and Infrastructure Policy*, went into effect. At the time of the review of the Local Map Amendment, the Subject Property was previously located within the North Bethesda orange policy area, as determined under the 2016-2020 *Subdivision Staging Policy*. A revised traffic study

was required to satisfy pedestrian, bicycle, and transit adequacy analyses due to these Preliminary Plan and Site Plan requests exceeding 50-peak hour person trips, as referenced in Table 2. As a result, the revised traffic study as part of this Preliminary Plan was reviewed under the 2020-2024 Growth and Infrastructure Policy due to the traffic scoping application having been accepted in April of 2022 and reviewed within the Grosvenor red policy area.

Table 2: Site-Generated Peak-Hour Person Trips

Land Uses	Square Feet, Units, or Beds ⁶	Site-Generated Peak-Hour Person Trips	
		Morning	Evening
Former Use			
Assisted Living	38,000 sf.	12	15
Total Existing Person Trips		22	28
Land Uses under this application			
Townhomes	115 Units	45	56
Detached Single Family Residential	10 Units	10	9
Assisted Living ⁷	150 Beds	24	32
Proposed Subtotal Vehicular Trips		79	97
Proposed Subtotal Person Trips		127	154
Net Increase in Peak-Hour Person Trips		+105	+126

(Source: Applicant's LATR Review prepared by Gorove Slade)

Pedestrian, Bicycle, and Bus Transit Adequacy Tests

In March of 2022, the Planning Board updated the 2022 LATR to provide guidance on establishing the maximum costs of improvements an applicant is required to construct or fund to address deficiencies identified in the review of Pedestrian System Adequacy, Bicycle System Adequacy, and Bus Transit System Adequacy. Section VIII of the 2022 LATR includes a methodology by which the extent of development determines the maximum cost of mitigation projects:

$$\text{LATR Proportionality Guide} = (\text{Extent of Development}) \times (\text{LATR Proportionality Guide Rate}) \times (\text{LATR Proportionality Guide Adjustment Factor})$$

⁶ The final unit count for townhomes and single-family detached, and number of beds for the residential care facility are lower than what was analyzed.

⁷ The proposed residential trip generation was calculated using ITE Land Use Code 254 (Assisted Living) for the residential care facility.

For the Preliminary Plan, the maximum cost of construction for mitigation projects is capped at \$1,315,890⁸. After evaluating the adequacy of each of the required transportation modes, the Applicant identified a comprehensive list of deficiencies, by which a prioritized list of mitigation improvements was submitted. In compliance with the 2022 LATR, the final list of prioritized projects which could be feasibly constructed, within the proportionality guidance, was finalized by the reviewing agencies and a condition of approval. The final list of projects is included in Table 3.

Table 3: 4910-4920 Strathmore Avenue LATR Mitigation Project List

Map ID	Project Description	Project Location	Project Cost
1	Strathmore Avenue - 30' west Sidepath Connection (Remove existing sidewalk and replace with widened 10-ft-wide sidepath)	South Side of Strathmore Avenue between western property boundary to existing sidepath to the west	\$360,376.80
2	Strathmore Ave/Stillwater Ave: ADA-Compliant Curb Ramps and Continental Crosswalk	North leg crosswalk and curb ramps (3) on the north side of Strathmore Ave.	\$34,440.00
3	Strathmore Ave/Center Driveway: ADA-Compliant Curb Ramp and Continental Crosswalk	East leg crosswalk and receiving curb ramp on the north side of Strathmore Ave.	\$27,182.40
4	East Sidepath Connection with 10' sidepath with 6' buffer	South Side of Strathmore Avenue between eastern property boundary to existing sidewalk east of Flanders Avenue for 1,050 feet	\$722,534.40
5	Five (5) Streetlights to the East	South Side of Strathmore Avenue between eastern property boundary to existing sidewalk east of Flanders Avenue	\$163,388.00
		Total	
		Total Off-site Improvements	\$1,308,333.60
		Proportionality Guide	\$ 1,315,890.00

(Source: Adapted from Page 40 of the Applicant's 2022 LATR & Technical Attachments prepared by Gorove Slade)

⁸ Per the LATR Guidelines, the project's land use categories are Townhomes (Single Family Attached), Single Family (Detached) Homes, and Assisted Living Facility with a proportionality guide rate of \$16,506 per townhome; \$20,173 per single family home; and \$3,668 per assisted living bed, respectively. Based on the project's location and policy area, the proportionality adjustment factor is 50 percent.

As conditioned, all mitigation projects must be constructed before issuance of the final Use and Occupancy permit or above grade building permit, whichever comes last. The projects identified to address pedestrian system and transit system deficiencies in Table 4 below either exceed the required Proportionality Guide and/or currently present challenges with implementation that range from timing/coordination with other improvements or lack of right-of-way; however, future conditions may render these projects feasible as an alternative to those improvements identified for implementation in the above Table 3. As conditioned, modifications to conditioned improvements may be warranted. Situations may arise in which the Applicant proposes to replace a conditioned improvement for another improvement on the list of mitigation projects identified in the Staff Report. In these instances, the replacement project must be of similar cost to the conditioned project, as estimated in the Staff Report and adjusted for inflation.

Table 4: 4910-4920 Strathmore Avenue LATR Mitigation - Alternative Project List

Map ID	Project Location	Project Description
2	Strathmore Avenue (south side), crossing of Holy Cross Academy driveway	Add marked crossing
4	Strathmore Avenue (north side), eastern study area boundary to bus stop across from Holy Cross Academy driveway	Add 5 to 8 ft. sidewalk with 5 to <8 ft. buffer
5	Strathmore Avenue (north side), bus stop across from Holy Cross Academy to Stillwater Avenue	Add 5 to 8 ft. sidewalk with 5 to <8 ft. buffer
7	Stillwater Avenue with Strathmore Avenue (north side, east-west crossing)	Add marked crosswalk
8	Strathmore Avenue (north side), Stillwater Avenue to western study area boundary	Add 5 to 8 ft. sidewalk with 5 to <8 ft. buffer
9	Strathmore Avenue & Stillwater Avenue (north-south crossing), NW corner	Bring existing curb ramps to compliance
10	Strathmore Avenue & Stillwater Avenue (east-west crossing), NE corner	Add curb ramp with DWS
12	Strathmore Avenue & Holy Cross Academy Driveway (north-south crossing)	Bring existing curb ramps to compliance
13	Strathmore Avenue & Holy Cross Academy Driveway (east-west crossing), SE corner	Add curb ramp with DWS
17	Strathmore Avenue at Symphony Park Drive EB bus stop (Stop ID 26222)	Add Real-Time Information Display (RTI)
18	Strathmore Avenue at Jolly Way WB bus stop (Stop ID 26256)	Add Real-Time Information Display (RTI)

(Source: Page 40 of the Applicant's 2022 LATR & Technical Attachments prepared by Gorove Slade)

Vision Zero Statement

The Application was required to analyze existing traffic safety conditions within 750 feet of the Site frontages, which includes a review of the High Injury Network, review of historical crash data within the last five (5) years, and analysis of traffic speeds along two (2) segments within the TIS boundary. Roadways within the study area are not classified as a High Injury Network roadway segment within 750 feet of the Site frontages.

The Applicant reviewed the crash history within 750 feet of the Site frontages and determined that 13 crashes were recorded between 2015 and 2020. Of the 13 crashes, none involved bicycles or pedestrians. There were four (4) total crashes resulting in minor/possible injuries, however none were fatal or were classified as serious crashes. In coordination with Planning Staff, the Applicant identified two (2) locations for speed studies within the TIS boundary: 1) Northbound Stillwater Avenue between Bangor Drive and Aurora Drive and 2) Southbound Stillwater Avenue between Bangor Drive and Aurora Drive.

The posted speed limits on Stillwater Avenue within the study area is 25 miles per hour (MPH). The 85th percentile speeds for each segment were calculated based on the recorded observations. All measured actual 85th percentile speeds were above the posted speed limits, with an average of 28 MPH speeds measured for northbound vehicular traffic and an average of 31 MPH speeds measured southbound vehicular traffic.

Traffic Mitigation Requirements

As a Project within the North Bethesda Transportation Management District (TMD) that is greater than 40,000 square feet of gross floor area, the Applicant is required to develop a Level 3 Results Transportation Demand Management (TDM) Plan with the Planning Board and MCDOT to participate in the North Bethesda TMD. However, per the approval of MCDOT, the Applicant may proceed with filing a Level 1 Basic TDM Plan due to the residential care facility generating relatively few peak hour vehicle trips.

f) Other Public Facilities and Services

The Subject Property is located within the W-1 and S-1 water and sewer categories and is served by a 12-inch water line along Strathmore Avenue and a 15-inch sewer line running north-south through the Property. Therefore, there are adequate water and sewerage facilities to serve the Project. Dry utilities (electric, gas, and communications) will be provided via a public utility easement connected to Strathmore Avenue and running along

the central drive, alleys, and behind the front-load townhouses. Additionally, the Project will be serviced by adequate police, fire, and health services.

i. Schools

The 104 townhouses and 9 single family detached units within the Preliminary Plan are subject to the FY2023 Annual School Test that was effective July 1, 2022⁹. The Project is served by Garrett Park Elementary School, Tilden Middle School and Walter Johnson High School. Based on the FY23 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 5: Applicable FY2023 School Adequacy

School	Projected School Totals, 2026				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit		Tier 1	Tier 2	Tier 3
Garrett Park ES	777	722	92.9%	+55	No UPP	14 0	21 1	327
Tilden MS	1,216	973	80.0%	+243	No UPP	36 9	48 7	669
Walter Johnson HS ¹⁰	2,321	2,121	91.4%	+200	No UPP	38 0	66 5	1,013

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school’s adequacy status and ceilings, as determined in the Annual School Test. Under the FY23 Annual School Test, Garrett Park Elementary, Tilden Middle School and Walter Johnson High School do not require any UPP as identified in Table 5. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

Calculation of Student Enrollment Impacts

To calculate the number of students generated by the plan, the number of dwelling units is multiplied by the applicable School Impact Area student generation rate for each school level. With a net of 104 townhouses and 9 single family detached units that are not age-restricted, the Project is estimated to generate the following number of students based on the Subject Property’s location within an Infill Impact Area:

⁹ Dwelling units subject to the Annual Schools Test are categorized by structure type: single family detached, single family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit.

¹⁰ Projected enrollment reflects the estimated impact of CIP P651908, which will reassign students between the Downcounty Consortium, Walter Johnson High School, and Woodward High School in 2026.

Table 6: Estimated Student Enrollment Impacts

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	104	0.195	20.280	0.096	9.984	0.139	14.456
SF Attached	9	0.166	1.494	0.091	0.819	0.116	1.044
MF Low-rise	0	0.059	0.000	0.023	0.000	0.032	0.000
MF High-rise	0	0.034	0.000	0.015	0.000	0.016	0.000
TOTALS	113		21		10		15

As shown in Table 6, on average, this Project is estimated to generate 21 elementary school students, 10 middle school students and 15 high school students. The estimated number of students generated do not exceed the adequacy ceilings identified for each school. Therefore, no additional UPPs are required, and neither are partial payments across multiple UPP tiers.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. A Preliminary Forest Conservation Plan (PFCP No. H143) was approved with Local Map Amendment (LMA) H-143 on May 19, 2022. The PFCP included a variance approval to remove twelve (12) trees and to impact, but retain, an additional three (3) trees covered by the variance provision of Section 22A-12(b)(3) of the Forest Conservation Law. The net tract area covered by the PFCP is 39.46 acres, including the 15.36-acre area under this Preliminary Plan.

A Final Forest Conservation Plan (FFCP) was submitted with this Preliminary and the concurrently submitted Site Plans. The FFCP also covers the entire property under the PFCP. The Net Tract Area for the FFCP, including off-site disturbance related to the development, is 39.60 acres. The FFCP shows 4.06 acres of existing forest cover and 0.48 acres of

forest to be cleared or counted as cleared to construct the development. The Applicant is retaining 3.58 acres of forest. All retained forest is protected within Category I easements.

A total of 2.84 acres is required for new plantings to meet reforestation and afforestation requirements. The Applicant will plant 3.0 acres and apply the extra 0.16 acres of plantings as enhanced forestation for mitigation for stream buffer encroachments. A Category I Conservation Easement will be recorded over 1.75 acres of forest plantings. A Category II Conservation Easement will be recorded over the remaining 1.25 acres of forest plantings.

B. Forest Conservation Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (“CRZ”) requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise, such resources must be left in an undisturbed condition.

An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Variance Request – Approval of PFCP No. H-143 included a variance approval to remove twelve (12) Protected Trees, and to impact the CRZ, but save, an additional three (3) trees. The Applicant submitted an amended variance request in a letter dated May 19, 2022. The amended variance will increase the CRZ disturbance to three (3) trees from the amount permitted under the original variance approval, and a new request to disturb the CRZ of, but save, one (1) tree not included in the original variance request. The amended variance also reduces the previously approved impacts to the CRZ of two trees, but no new approval is required for reducing impacts. The status of the three (3) trees sustaining increased impacts is not changing from the original variance approval.

Table 7: Protected Trees to be Newly Impacted

Tree Number	Species	DBH Inches	% CRZ Impacts	Status and Notes
199	Red Maple (<i>Acer rubrum</i>)	39"	3%	Save.

Table 8: Protected Trees with Increased CRZ Impacts

Tree Number	Species	DBH Inches	% CRZ Impacts	Status and Notes
141	American sycamore (<i>Platanus occidentalis</i>)	40.5"	28%	Previously approved for 21% CRZ impact. Granted permission to remove but try to save.
142	Tuliptree (<i>Liriodendron tulipifera</i>)	37.5"	32%	Previously approved for 23% CRZ impact. Granted permission to remove but try to save.
149	Silver maple (<i>Acer saccharinum</i>)	53"	15%	Previously approved for 13% CRZ impact. Tree to be saved.

Unwarranted Hardship

Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the Subject Property is constrained by the stream valleys on its eastern and western sides. Retention of the existing school and its access further limits development. Trees number No. 141 and No. 142 are impacted by grading required to tie into the adjacent lot and by grading required to construct the natural surface trail. These impacts have been minimized to the extent feasible. Tree No. 149 is impacted by required and necessary utility connections and frontage improvements. Tree No. 199 is impacted by required sidewalk improvements. The inability to impact these trees would prevent completion of infrastructure and amenities required to serve this Project. Therefore, the Planning Board finds that there is a sufficient unwarranted hardship to justify a variance request because approval of the Project is contingent on the provision of infrastructure and amenities required by the Planning Department and other County agencies. Denying the variance would therefore deny the Applicant a reasonable and significant use of the Property.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as

appropriate, in order for a variance to be granted. The following determinations by the Planning Board in the review of the variance request and the Forest Conservation Plan is as follows:

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the removal and disturbance to the specified trees are due to the development of the Property, location of the trees and necessary site design requirements. Granting a variance to allow disturbance within the Site to meet the development requirements of the Planning Department and various County agencies is not unique to this Applicant. With the data presented, it is concluded that the granting of this variance is not a special privilege that would be denied to other applicants.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The variance is based upon the existing site conditions, development standards of the zone, and necessary design requirements of this Application, including street frontage improvements.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions and the site design and layout of the Subject Property, and not as a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The original variance approval granted under PFCP No. H-143 required mitigation tree plantings for Protected Trees being removed. The two trees in the amended variance submitted with the FFCP were already approved for

removal and included in the requirement to provide mitigation trees for trees removed. The mitigation trees will replace water quality functions that may be lost by the removed trees. Therefore, the Application will not violate State water quality standards or cause measurable degradation in water quality.

There are twelve (12) Protected Trees proposed for removal in the original and amended variance request, resulting in a total of 459.8 inches of DBH being removed. The Applicant proposes mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced at a ratio of approximately 1-inch caliper for every four inches removed using trees that are a minimum of three caliper inches in size. This results in a total mitigation of 114.95 inches with the installation of 39 3-inch caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements. Although these trees will not be as large as the trees lost, they will be planted on the Subject Property and provide some immediate benefit, ultimately replacing the canopy lost by the removal of these trees. There is some disturbance within the CRZ of three trees; however, they will receive adequate tree protection measures, their roots will regenerate, and the functions they currently provide will continue. Therefore, no mitigation is recommended for trees that are impacted but retained. As conditioned, the mitigation trees will be protected as part of a 5-year maintenance and management agreement. The planting locations of the 39 variance mitigation trees are shown on the FFCP.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

The Stormwater Management Section of the Montgomery County Department of Permitting Services (MCDPS) issued a letter accepting the stormwater management concept dated December 2, 2022. The MCDPS determined that the Concept Plan meets applicable standards and includes environmental site design ("ESD") techniques that will filter and retain stormwater on-site through micro-bioretenment areas. Plantings approved by MCDPS will also be used in ESD's to the greatest extent practicable.

6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.*

Not applicable to this Property as there are no known burial sites nor is there a burial site identified in the County Cemetery Inventory.

7. *Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.*

The Application must comply with the binding conditions and certified Floating Zone Plan that were part of LMA No. H-143, as may be amended.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 05 2023 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Branson, seconded by Commissioner Presley, with a vote of 5-0; Chair Zyontz, Vice Chair Presley, and Commissioners Branson, Hill, and Piñero, voting in favor of the motion, at its regular meeting held on Thursday, December 22, 2022, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
Montgomery County Planning Board

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-119
Site Plan No. 820220220
4910-4920 Strathmore Avenue
Date of Hearing: December 15, 2022

JAN 05 2023

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on March 30, 2022, SAH Homes Associates, LLC and BL Strathmore LLC, c/o EYA Development LLC (“Applicant”) filed an application for approval of a site plan for the construction of 113 dwelling units (9 detached houses and 104 townhouses), including MPDUs, and a 145-bed residential care facility, new vehicle access points, and open spaces (“Project”) on 15.35 acres of land in the CRNF-0.75, C-0.25 R-0.75 H-50’ zone, located at 4910-4920 Strathmore Avenue, Kensington, MD (“Subject Property”), in the Red Policy Area and 1992 *North Bethesda/Garrett Park Master Plan* (“Master Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820220220, 4910-4920 Strathmore Avenue (“Site Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 5, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on December 15, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to certain conditions, by motion of Vice Chair Presley, seconded by Commissioner Branson, with a vote of 4-1; Chair Zyontz, Vice Chair Presley, Commissioners Branson and Piñero voting in favor, with Commissioner Hill voting against.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820220220 for up to 113 single family dwelling units (9 detached and 104

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Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

attached), including 15% Moderately Priced Dwelling Units (MPDUs), a 145-bed residential care facility, new private roads (Street A, Street B, and Street C), alleys, and open spaces on the Subject Property, subject to the following conditions:¹

Density, Height & Housing

1. Density

This Site Plan is limited to a maximum of 482,000 square feet of total development on the Subject Property, for up to 9 single-family detached houses and 104 townhouses, and 145 beds within a 138,000 square foot residential-care facility, permitted as a limited use.

2. Height

The development is limited to a maximum height of 50 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

3. Moderately Priced Dwelling Units (MPDUs)

- a) The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated September 20, 2022 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.
- b) The townhouse portion of the development must provide fifteen (15) percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan.
- c) Before issuance of any building permit for any of the single family attached or detached residential unit(s), the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

Open Space, Facilities, and Amenities

4. Public Open Spaces

The Applicant must provide a minimum of 20,000 square feet of public open space (10.3% of Site area) on-site and all amenities within the Property, as shown on the Certified Site Plan.

- a) The public open space area that overlaps with the natural surface trail that traverses the rear of the townhouse units to the south of the

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

Site, must be substantially completed prior to the building permit associated with the 78th dwelling unit (75% completion of the single-family and townhouse portion).

- b) Prior to the issuance of the use and occupancy certificate associated with the residential care facility, the terraced multi-generational open space with all amenities located at the intersection of Street A and Street C must be substantially completed.
- c) Prior to the issuance of the use and occupancy certificate associated with the residential care facility, the smaller open space area and all amenities located at the intersection of Street A and Strathmore Avenue must be substantially completed.

5. Common Open Spaces

The Applicant must provide a minimum of 50,000 square feet of common open space (11.4% of Site area) on-site, as shown on the Certified Site Plan.

- a) The common open space areas identified as two (2) pocket greens located to the east of Street C must be substantially completed prior to the building permit associated with the 78th dwelling unit (75% completion of the single-family and townhouse portion).
- b) The common open space area that abuts the natural surface trail that traverses the rear of the townhouse units to the south and west of the Site must be substantially completed prior to the building permit associated with the 78th dwelling unit (75% completion of the single-family and townhouse portion).

6. Amenities and Facilities

- a) The green areas and amenities illustrated on the Site Plan at the intersection of Street C and Street B (southeast corner) and the intersection of Street A and Street B (southwest corner) must be substantially completed at the time of adjacent townhouse unit construction.
- b) The Applicant must install all new utilities underground within the Site.
- c) The Applicant must provide the applicable landscape buffer plantings between the sidewalk and streets and in the alleys within the Site, as shown on the certified Landscape Sheets L0201 and L0202 within the first growing season after the issuance of the use and occupancy for the residential care facility or with the construction of the adjacent townhouse units.

7. Recreation Facilities

- a) The Applicant must provide the minimum required recreation facilities associated with the townhouses, as shown on the Certified Site Plan, prior to the issuance of the building permit for the 103rd townhouse unit.

b) The Applicant must provide the minimum required recreation facilities associated with the residential care facility, as shown on the Certified Site Plan, prior to the issuance of the use and occupancy permit.

8. Maintenance of Public Amenities

The Applicant and ultimately the future HOA is responsible for maintaining all publicly accessible amenities including, but not limited to public art in the terraced garden, seating, tables, equipment, and trash receptacles.

Environment

Forest Conservation

9. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
10. Prior to certified Final Forest Conservation Plan (FFCP), the Applicant must correct the worksheet to reflect removal of the deduction for the public utility easement, and any resulting adjustment to the forest planting requirement. Any additional afforestation requirement resulting from this deduction may be met by a fee-in-lieu or off-site banking.
11. Prior to certified FFCP, the Applicant must correct the labeling for the areas of forest clearing shown on the plans.
12. Prior to certified FFCP, the Applicant must add a table to the plans showing numbers of trees by species to be planted to fulfill both the afforestation/reforestation planting requirement and the variance mitigation tree requirement.
13. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
14. Prior to the start of any clearing or grading not associated with the demolition of the existing building on the property, or new construction for this development Application, whichever comes first, the Applicant must record the Category I and II Conservation Easements over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I or II Conservation

Easements must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed.

15. Prior to the start of any clearing or grading not associated with the demolition of the existing building on the property, or new construction for this development Application, whichever comes first, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the 3.00 acres of new forest planting and for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
16. Prior to the initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
17. Prior to the initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the permanent conservation easement fencing along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
18. Prior to the start of any clearing or grading not associated with the demolition of the existing building on the property, or new construction for this development Application, whichever comes first, the Applicant must execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff. All proposed measures should be chosen with consideration of the proximity to the on-site stream and wetlands and the sensitive nature of this watershed. The use of herbicides should be avoided where possible.
19. The Applicant must install the Afforestation/Reforestation plantings for Planting Areas outside of the limits of disturbance (“LOD”) as shown on the approved FCP, within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County

Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff. The warranty period for these plantings will commence upon M-NCPPC inspector's approval and acceptance.

20. The Applicant must install the Afforestation/Reforestation plantings for Planting Areas inside the LOD, as shown on the approved FCP, in the first planting season following stabilization of the applicable disturbed area. The warranty period for these plantings will commence upon M-NCPPC inspector's approval and acceptance.
21. The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling 114.95 caliper inches as shown on the approved FCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
22. The Applicant must install the mitigation tree plantings, as shown on the approved FCP, in the first planting season following stabilization of the applicable disturbed area or completion of the nearest associated building or open space area, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
23. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the certified Final Forest Conservation Plan.

Noise Attenuation

24. Prior to the issuance of the first above grade building permit for the single-family units along Strathmore Avenue, the Applicant/developer/builder must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that:
 - a) The building shell for residential dwelling units affected by exterior noise levels projected at or above 65 dBA Ldn, fronting Strathmore Avenue will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
25. Before issuance of any Use and Occupancy Certificate or Final Inspection, whichever is relevant, for any of the noise-impacted units, a professional engineer must certify to the Planning Department and the Department of Permitting Services that the noise-impacted units have been constructed in

accordance with the recommendations of the certified acoustical engineer's recommendations in the noise study.

26. If any changes occur to the Site Plan which affect the validity of the noise analysis dated May 5, 2022, acoustical certifications, and/or noise attenuation features, a new noise analysis will be required to reflect the changes and new noise attenuation features may be required.
27. Before issuance of any Use and Occupancy Certificate or Final Inspection, whichever is relevant, for any of the noise impacted units, a Professional Engineer must certify to the Planning Department and Department of Permitting Services that the noise impacted units have been constructed in accordance with the certification of an engineer who specializes in acoustical treatments.
28. For all noise-impacted single-family residential dwelling units, the Applicant/developer/builder must disclose in writing to all prospective purchasers that those homes are impacted by transportation noise. Such notification must be included in any noise impacted sales contracts, and in Homeowner Association documents.

Transportation & Circulation

29. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated July 11, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in its memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) Prior to the issuance of any above grade building permit for the residential care facility, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT) for the residential care facility portion of the project.
- c) Before issuance of the first above grade building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Road has been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on this Site Plan, and that the road has been

designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.

30. Pedestrian & Bicycle Circulation

- a) The Applicant must provide 6 long-term and 14 short-term bicycle parking spaces, as shown on the certified Site Plan.
- b) The long-term spaces must be in a secured, well-lit parking area, and the short-term spaces must be inverted-U racks (or approved equal) installed in a location convenient to the main entrance (weather protected preferred). The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.
- c) The Applicant must provide the following pedestrian and bicycle facilities on site, as shown on the Certified Plan:
 - i. Streets A through C (both sides of each street): five-foot-wide sidewalks with five-foot-wide buffer from traffic.
 - ii. Site frontage on Strathmore Avenue (south side): ten-foot-wide sidepath with six-foot-wide buffer from traffic.
 - iii. Natural Surface Trail shown west and south of Street C within the stream valley buffer.

31. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated September 9, 2022, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

Site Plan

32. Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A-2.00 through A-4.05 of the submitted architectural drawings, as determined by M-NCPPC Staff.

- b) The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.

33. Lighting

Prior to certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).

- a) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- b) Deflectors will be installed on all existing and proposed fixtures to prevent excess illumination and glare.
- c) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by streetlights within the right-of-way.
- d) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

33. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, whichever comes first, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, outdoor recreational facilities, site furniture, monument signage, playground equipment, water feature installation, mailbox pad sites, trash enclosures, art sculpture, dog waste station, clock tower, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and streetlights. The surety must be posted before issuance of

any building permit of development and will be tied to the development program.

- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

34. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

35. Homeowners Association (HOA)

At the time of recording, the HOA established for the townhomes and single-family homes must include language in the Declaration of Covenants, Conditions, and Restrictions regarding the prohibition of driveway parking that extends into the private street or sidewalk. A provision shall include the prohibition of the HOA's removal of this restriction.

36. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, Site Plan resolution, and other applicable resolutions on the approval or cover sheet(s).
- b) Add the following notes:
 - i. "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
 - ii. "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
 - iii. "The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur prior to any site development work commencement and prior to any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with its representatives, must attend the pre-con with

DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times.”

iv. “Commercial uses are prohibited except for those accessory uses associated with the residential care facility.”

- c) Include Fire and Rescue Access plan in the Certified Site Plan.
- d) Ensure the data table reflects the development standards approved by the Planning Board.
- e) Include notes for approval of all waivers granted by the Planning Board.
- f) Ensure consistency of all details and layout between Site and Landscape plans.
- g) Update the architectural drawing A-4.05 to show high-visibility rear elevation for all front-loaded townhomes (Lot Nos. 3 through 31) with a more substantial presence along the public trail. These materials must be clearly identified and separately labeled materials, with Staff approval.
- h) Update the architectural drawing A-2.00 to show a weathervane or small spire at the top of each tower to create a prominent top for these tower elements, with Staff approval.
- i) Revise the Recreation Exhibit to reflect the approved elements.
- j) Revise the Landscape/ Hardscape Plan to address comments in ePlans, including the following:
 - i. Include landscaping for townhouse sticks including Lot No. 1-9 and Lot No. 30-38.
 - ii. Insert L0307 into the plan set and update this landscaping drawing to show a maximum dimension of four feet for the rear fences along the trail and six feet for privacy fence between the units.
 - iii. Add end unit and alley landscaping.
 - iv. Include a table clearly demonstrating the provision of tree canopy and permeable area related to public and common open spaces. Tree canopy size must be calculated at 20 years of growth, as defined by the Planning Board's Trees Technical Manual, as amended.
 - v. Include foundational plantings for the residential care facility.
 - vi. Add details of the soft water element.
- k) Add a Site Plan note that states that driveway parking that extends into the private street or sidewalk is prohibited for front loaded townhouses along Street C.
- l) Revise the Lighting Plan to show the lighting level throughout the Site.
- m) Add the trash enclosure to the Site Detail Sheet illustrating that the materials will be consistent with the architecture and color of the principal building.
- n) Include the Project's phasing plan.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 4910-4920 Strathmore Avenue Site Plan No. 820220220, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The development satisfies any previous approval that applies to the site.*

The Application meets all of the binding elements of Local Map Amendment No. H-143 (Council Resolution 19-1308) including the certified Floating Zone Plan.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This section is not applicable as the Subject Property's zoning classification on October 29, 2014, was not the result of a Local Map Amendment.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

- a. Use Standards

The purpose of the Commercial/Residential Floating zones is to allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings; allow flexibility in uses for a site; and provide mixed-use development that is compatible with adjacent development. The single-family detached units and townhouses are permitted and the group living residential care facility is a limited use with use standards in the CRNF Zone. The Site Plan fulfills the general purposes of the zone.

b. Development Standards

The Subject Property includes approximately 15.35 acres zoned CRNF. The Application satisfies the applicable development standards as shown in the following data table:

Table 1: Site Plan Data Table for CRNF Zone, Standard Method

Development Standard	Permitted/ Required	Approved
Tract Area	n/a	688,801 sf. (15.81 ac.)
Prior Dedication	n/a	19,952 sf. (0.46 ac.)
Proposed Dedication	n/a	n/a
Site Area	n/a	668,849 sf. (15.35 ac.)
Maximum Density of Development (CRNF-0.75, C-0.25, R-0.75, H-50)	Residential - 0.75 FAR/ (516,658 sf.) Commercial - 0.25 FAR (172,219 sf.)	Residential - 0.70 FAR/ (482,000 sf.) Commercial - 0 FAR (0 sf.)
Public Open Space (Residential Care Facility)	10% (19,438 sf.)	10.3% (20,000 sf.; 0.46 acres)
Common Open Space (Townhouses)	10% (44,000 sf.)	11.4% (50,000 sf.; 1.15 acres)
MPDU requirement²	15%	15% (17 units)
Building Height	50 feet	50 feet
Principal Building Setbacks		
From Site Boundary – Strathmore Ave.	n/a ³	10 ft.
From Site Boundary – Side & Rear	n/a ³	50 ft.
Minimum Lot Size	n/a ⁴	672 sf.
Maximum Lot Coverage	n/a ⁴	80%
Front setback	n/a ⁴	0 ft.

² The MPDU requirement applies the detached homes and townhouses only.

³ Established by the approved Floating Zone Plan – LMA No. H-143.

⁴ Established by this Site Plan Application.

Side street	n/a ⁴	0 ft.
Side	n/a ⁴	0 ft.
Rear		

c. General Requirements

i. *Site Access*

Per Section 59.6.1.1 of the Zoning Ordinance, the intent of site access requirements is to ensure safe adequate, and efficient vehicular, bicycle, and pedestrian circulation within and between lots on the same block face and to reduce traffic congestion. The requirement applies to an apartment, multi-use, or general building type within the Residential Multi-Unit, Commercial/ Residential, Employment, Industrial, and Floating zone. Further, pursuant to Section 6.1.3. for general access requirements, any development must: 1) allow a vehicle, pedestrian, or bicycle to enter and exit the property to and from a street or an abutting site safely; 2) limit vehicle access across a primary pedestrian, bicycle, or transit route wherever feasible; 3) allow a vehicle to enter and exit any on-site parking area in a forward motion; and 4) allow a vehicle to access any pad site from within the site. The Board finds that the Site Plan complies with all applicable requirements.

The Site Plan includes a combination of roads, sidewalks, bikeways, and natural surface trails that allow access at a number of ingress and egress points into the Site for safe, adequate, and efficient circulation. Internal circulation is also facilitated via 20-foot-wide, two-way alleys. Site access will be improved through a new network of private roads (Streets A, B, and C) that provide porosity, new traffic control devices including one new traffic signal at the intersection of Strathmore Avenue and Street A, and new non-motorized infrastructure that will connect the new neighborhood to existing public transit options nearby. Traffic congestion will be reduced as a result of the third access point provided within the Site, the realignment of Stillwater Avenue and an additional

turning lane on Strathmore Avenue. The Applicant's analysis of traffic with the additional access point demonstrates that the majority of study intersections operate well below the congestion standard even after additional trips from the new development are added to the network.

ii. *Parling, Queuing, and Loading*

Per Section 59.6.2.4.B of the Zoning Ordinance, the Subject Application must provide a minimum of 175 and maximum of 288 vehicular parking spaces⁵ based on unit types, number of beds, and employees, whereas the Application proposes 290 off-street parking spaces (Table 2). A total of 16 spaces of the required 62 spaces for the residential care facility are located in surface parking spaces and the remainder are located within the structured parking garage. The Applicant will also provide ready-to-be converted spaces for electric vehicles. In accordance with Section 59.6.2.10 of the Zoning Code, the deciding body may waive any requirement of Division 6.2, except the required parking in a Parking Lot District under Section 6.2.3.H.1, if the alternative design satisfies Section 6.2.1. The Applicant requests a waiver from the Planning Board to exceed the maximum total number of off-site parking spaces associated with the residential care facility, as shown in the table below. These two (2) additional spaces are located within the structured garage, will help absorb the visitor demand, and are considered to have a de minimis impact.

The waiver satisfies Section 6.2.1 which outlines the intent of site access requirements to ensure safe and convenient vehicular, bicycle, and pedestrian circulation within and between lots on the same block face and to reduce traffic congestion. Additionally, per Section 59.6.2.3.H.2.b., in a Reduced Parking Area, an Applicant may provide more parking

⁵ Per Section 59.6.2.4, projects in a Parking Lot District or Reduced Parking Area (defined as "A designated area defined by a property's zoning and location, including any property not in a Parking Lot District, and 1) in a CR, CRT, LSC, EOF, or equivalent Floating zone, or 2) in a CRN, NR, GR, or equivalent Floating zone that is within 1 mile of a transit station or stop, as defined by Transit Proximity") are subject to parking minimums and maximums. Because the Property is zoned CRNF it is subject to these minimums and maximums.

spaces than allowed by the maximum if all of the parking spaces provided in excess of the maximum number allowed are made available to the public and are not reserved, or if a parking waiver under Section 6.2.10 is approved.

The Planning Board hereby grants the waiver request for two (2) additional parking spaces associated with the residential care facility given the remainder of the Site complies with the maximum amount of vehicular parking and respects the availability of existing transit and new planned bicycling infrastructure.

Also, an additional 32 on-street parking spaces will be provided along either one-side or both sides of the private streets which will allow for additional visitor parking for the residential units and will aid in traffic calming to make the neighborhood more pedestrian-friendly and walkable.

Additionally, 5 long-term bicycle parking spaces are required, whereas the Applicant will provide 6 long-term bicycle parking spaces within the garage. Additional short-term bicycle racks will be placed adjacent to two key locations throughout the Site as shown on the certified Site Plan.

The Planning Board finds that the Application meets the intent of the vehicle and bicycle parking, queuing, and loading requirements to ensure that adequate parking is provided in a safe and efficient manner.

Table 2: Summary of Parking Requirements

Standard	Permitted/ Required	Approved
Vehicular Parking		
<i>Townhouse – 1 space min. /2 max. spaces per unit x 104 units</i>	<u>Single-Family Attached</u> 104 (min.) 208 (max.)	<u>Single-Family Attached</u> 208
<i>Single-Family Detached – 1 space min/ 2 spaces max. per unit x 9 units</i>	<u>Single-Family Detached</u> 9 (min.) 18 (max.)	<u>Single-Family Detached</u> 18
<i>Residential Care Beds – 0.25 space per bed x 145 beds</i>	<u>Beds</u> 37	<u>Beds</u> 38 ⁶
<i>Residential Care Employees – 0.5 space per employee x 50 employees</i>	<u>Employees</u> 25	<u>Employees</u> 26
	<u>Combined Total</u> 175 (min.) 288 (max.)	<u>Combined Total</u> 290 spaces
Surface Parking Setbacks		
Front	Behind front building line	Complies
Side Street	Behind side street bldg. line	
Side	Must accommodate landscaping	
Rear	Must accommodate landscaping	
Rear, Alley	n/a	
Bicycle Parking	5 spaces	6 spaces
0.10 spaces per employee x 50	(95%; long-term)	

Per Section 59.6.2.8.B, designated off-street loading is required for the group living residential care facility because it exceeds the threshold of 25,000 square feet gross floor area. Necessary loading and trash collection for the building will occur in the Site’s eastern

⁶ Of the 64 parking spaces designed to the residential care facility, only 48 will be located within the parking garage, which is under the 50-space threshold for one (1) car sharing space requirement for a parking facility per Section 59.6.2.3.D.1 and for motorcycle/scooter parking per Section 59.6.23.3.C of the Zoning Ordinance.

surface parking lot, which is separated from the primary access points for the Site.

iii. *Open Space and Recreation*

Per Section 59.6.3.1 of the Zoning Code, open space must provide adequate light, air, circulation, and recreation and encourages preservation and enhancement of natural resources, including improvement of water and air quality. As required, the Application provides public open space associated with the residential care-facility and the townhouses.

To satisfy the public open space requirement for the residential care facility, the Project will provide 20,000 square feet (0.46 acres) across two areas along the east side of Street A at the intersection of Strathmore Avenue and at the intersection of Street C with terraced seating. The location to the east of Street A is the main gathering space for the community. The third area is along the west side of Street A at the intersection of Street C.

To satisfy the common open space requirement for the townhouses, the Project is providing 50,000 square feet (1.15 acres) that stretches along two locations. The first area is along the rear of the townhouse units to the south and west of the Site. This area includes a section of the common open space that is located in between the townhouse units to the south and west of Street C which takes advantage of stormwater facilities that are intended to function as rain gardens and incorporates them as landscape amenities of the space. The second area of common open space is identified as the two (2) pocket greens to the west of Street A and will be framed by adjacent townhouses and landscaped areas.

Section 59.6.3.9.C of the Zoning Ordinance requires that any development of a property with more than 19 residential units offer recreational facilities in accordance with *M-NCPPC's Recreation Guidelines*. The Site Plan will provide a natural area, playground, two pocket greens, picnic seating, inclusive adaptive recreation, a terraced garden area, and a bicycle support station. These elements can support various social engagement and activity levels across a variety of physical abilities and age groups.

Per Section 59.6.3.5.B of the Zoning Ordinance, three (3) design requirements must be met for common open space. Accordingly, the Application includes a common open space area that is centrally

located to the development – along the periphery of the townhomes west and south of Street C and within the two pocket greens in the heart of the central cluster of townhouses. The minimum width for any required common open space is 50 feet unless the deciding body grants an exception for items such as a trail easement, a mid-block crossing, or a linear park, by finding that its purpose meets the intent of Division 6.3 of Chapter 59 of the Zoning Ordinance. Some sections of the common open space are variable between approximately 15 feet in width to up to 40 feet and linked by a series of sidewalks and paths. In some short segments, the narrowest portions adjoin green areas categorized as public open space; therefore, the functional width is much wider. Section 59.6.3.5.B.1. indicates that common open space may also be placed in a location taking advantage of an important adjacent natural feature or open space. The natural surface trail within the common open space area provides proximity to a natural area for recreation and respite. These open spaces must meet the intent of Section 59.6.3., “Open Space and Recreation,” by providing access to light, air, and green space thereby promoting recreation while preserving and engaging with natural resources. Further, given the site constraints, the common open space overlaps the stream valley buffer areas, which is a permitted feature within an environmentally sensitive area under Section 59.6.3.3 of the Zoning Ordinance. The Planning Board granted the requested exception for the common open space arrangement as it meets the intent of the Ordinance when evaluated holistically with the combination of public open space.

iv. *General Landscaping and Outdoor Lighting*

Division 6.4 of Chapter 59 of the Zoning Code provides minimum standards for quantity, size, location, and installation of general landscaping and outdoor lighting on private property. These standards intend to preserve property values, strengthen the character of communities, and improve water and air quality. Subject to conditions of approval, the landscaping and lighting satisfy all applicable requirements.

All trees and plant materials meet the minimum required caliper and height at the time of planting, and some of the site landscaping elements contribute to stormwater management measures (where approved by MCDPS).

The Site Plan includes required outdoor lighting on private property, within the road's rights-of-ways, and within the surface parking areas via pole-mounted fixtures.

v. *Screening*

Per Section 59.6.5.2.C.2., within the Commercial/Residential zoning districts, any use in a townhouse, apartment, multi-use, or general building type must provide screening as defined under Section 6.5.3 if the subject lot abuts property in an Agricultural, Rural Residential, or Residential zone that is vacant or improved with an agricultural or residential use. Further, per Section 59.6.5.3.A, screening is required along a lot line shared with an abutting property that is vacant or improved with an agricultural or residential use.

The Subject Property abuts properties to the west and east that are located within the residential R-90 zone. However, the western side of the Project that proposes townhouses abuts a property to the west that contains townhouses. Per the table in Section 59.6.5.2.C.2., townhouses that abut townhouses do not require additional screening. The eastern side of the Project proposes a general building type with a non-industrial use (residential care facility), which abuts a property to the east with institutional uses, not a residential use. In this instance, additional screening is not required. Therefore, the Site Plan complies with the zoning ordinance with regard to screening beyond the standard landscaping requirements.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

The Stormwater Management Section of the Montgomery County Department of Permitting Services (MCDPS) issued a letter accepting the stormwater management concept dated December 2, 2022. The MCDPS determined that the Concept Plan meets applicable standards and includes environmental site design ("ESD") techniques that will filter and retain stormwater on-site through micro-bioretenion areas. Plantings approved by MCDPS will also be used in ESD's to the greatest extent practicable.

b. Chapter 22A, Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. A Preliminary Forest Conservation Plan (PFCP No. H143) was approved with Local Map Amendment (LMA) No. H-143 on May 19, 2022. The PFCP included a variance approval to remove twelve (12) trees and to impact, but retain, an additional three (3) trees covered by the variance provision of Section 22A-12(b)(3) of the Forest Conservation Law. The net tract area covered by the PFCP is 39.46 acres, including the 15.36-acre area under the Preliminary and Site Plans.

A Final Forest Conservation Plan (FFCP) was provided with the concurrently submitted Preliminary and Site Plans. The FFCP also covers the entire property under the PFCP. The net tract area for the FFCP, including off-site disturbance related to the development, is 39.60 acres. The FFCP shows 4.06 acres of existing forest cover and 0.48 acres of forest to be cleared or counted as cleared to construct the development. The Applicant is retaining 3.58 acres of forest. All retained forest is protected within Category I easements.

A total of 2.84 acres is required for new plantings to meet reforestation and afforestation requirements. The Applicant will plant 3.0 acres and apply the extra 0.16 acres of plantings as enhanced forestation for mitigation for stream buffer encroachments. A Category I Conservation Easement will be recorded over 1.75 acres of forest plantings. A Category II Conservation Easement will be recorded over the remaining 1.25 acres of forest plantings.

Forest Conservation Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone ("CRZ") requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise, such resources must be left in an undisturbed condition.

An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State

champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Variance Request – Approval of PFCP No. H-143 included a variance approval to remove twelve (12) Protected Trees, and to impact the CRZ, but save, an additional three (3) trees. The Applicant submitted an amended variance request in a letter dated May 19, 2022. The amended variance will increase the CRZ disturbance to three (3) trees from the amount permitted under the original variance approval, and a new request to disturb the CRZ of, but save, one (1) tree not included in the original variance request. The amended variance also reduces the previously approved impacts to the CRZ of two trees, but no new approval is required for reducing impacts. The status of the three (3) trees sustaining increased impacts is not changing from the original variance approval.

Table 3: Protected Trees to be Newly Impacted

Tree Number	Species	DBH Inches	% CRZ Impacts	Status and Notes
199	Red Maple (<i>Acer rubrum</i>)	39"	3%	Save.

Table 4: Protected Trees with Increased CRZ Impacts

Tree Number	Species	DBH Inches	% CRZ Impacts	Status and Notes
141	American sycamore (<i>Platanus occidentalis</i>)	40.5"	28%	Previously approved for 21% CRZ impact. Request permission to remove but try to save.
142	Tuliptree (<i>Liriodendron tulipifera</i>)	37.5"	32%	Previously approved for 23% CRZ impact. Request permission to remove but try to save.
149	Silver maple (<i>Acer saccharinum</i>)	53"	15%	Previously approved for 13% CRZ impact. Tree to be saved.

Unwarranted Hardship

Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the Subject Property is constrained by the stream valleys on its eastern and western sides.

Retention of the existing school and its access further limits development. Trees number No. 141 and No. 142 are impacted by grading required to tie into the adjacent lot and by grading required to construct the natural surface trail. These impacts have been minimized to the extent feasible. Tree No. 149 is impacted by required and necessary utility connections and frontage improvements. Tree No. 199 is impacted by required sidewalk improvements. The inability to impact these trees would prevent completion of infrastructure and amenities required to serve the Project. Therefore, there is a sufficient unwarranted hardship to justify a variance request because approval of the Project is contingent on the provision of infrastructure and amenities required by the law. Denying the variance would therefore deny the Applicant a reasonable and significant use of the Property.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted:

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the removal and disturbance to the specified trees are due to the reasonable development of the Property, location of the trees and necessary site design requirements. Granting a variance to allow disturbance within the Site to meet the legal development requirements of the Planning Department and various County agencies is not unique to this Applicant. With the data presented, it is concluded that the granting of this variance is not a special privilege that would be denied other applicants.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The variance is based upon the existing site conditions, development standards of the zone, and necessary design requirements of this Application, including street frontage improvements.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions and the site design and layout of the Subject Property, and not as a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The original variance approval granted under PFCP No. H-143 required mitigation tree plantings for Protected Trees being removed. The two trees in the amended variance submitted with the FFCP were already approved for removal and included in the requirement to provide mitigation trees for trees removed. The mitigation trees will replace water quality functions that may be lost by the removed trees. Therefore, the Application will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision

There are twelve (12) Protected Trees identified for removal in the original and amended variance request, resulting in a total of 459.8 inches of DBH being removed. The Applicant proposes mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced at a ratio of approximately 1-inch caliper for every 4 inches removed using trees that are a minimum of 3 caliper inches in size. This results in a total mitigation of 114.95 inches with the installation of 39 3-inch caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements. Although these trees will not be as large as the trees lost, they will be planted on the Subject Property and provide some immediate benefit, ultimately replacing the canopy lost by the removal of these trees. There is some disturbance within the CRZ of three (3) trees; however, they will receive adequate tree protection measures, their roots will regenerate, and the functions they currently provide will continue. Therefore, no mitigation is recommended for trees that are impacted but retained. As conditioned, the mitigation trees will be protected as part of a 5-year maintenance and management agreement. The planting locations of the 39 variance mitigation trees are shown on the FFCP.

Environmental Guidelines

The Montgomery County Planning Department's *Environmental Guidelines* recommend that buildings, structures, impervious surfaces, or activities requiring clearing and grading not be placed in stream buffers. Section V.A.1.(e) of the *Guidelines* states that small amounts of stream buffer modifications maybe be permitted on a case-by-case basis "so long as the modification is consistent with a comprehensive approach to protecting areas that are critical to preserving or enhancing streams, wetlands and their ecosystems." This section outlines the factors that will form the basis for the Board's consideration: (1) Reasonable alternatives for avoidance of the buffer are not available; (2) Encroachment into the buffer has been minimized; (3) Existing sensitive areas have been avoided; (4) the proposed use is consistent with the preferred use of the buffer; and (5) The plan design provides compensation for the loss of buffer function. The *Guidelines* note that, "In reviewing buffer compensation proposals, staff will consider such options as buffer averaging, enhanced forestation, bioengineering practices, and other environmentally beneficial techniques."

The Property covered by the Site Plan includes significant stream buffer areas on its eastern and western boundaries. The Property is also constrained by topography and by the existing road that provides access to the Holy Cross Academy. Various requirements for pedestrian, bicycle and auto circulation, stormwater management, utilities, and amenities to serve the development introduce grading and impervious elements that further constrain the site. Some of these requirements push the development envelope into the edges of the stream buffer on the western boundary and create small encroachments into the stream buffer to the east.

The Project has minimized the extent of stream buffer encroachments and includes features to provide compensation for the loss of buffer function. Remaining stream buffer encroachments include small pervious areas totaling approximately 5,000 square feet (0.11 acres). To replace lost stream buffer functions in these areas, the Applicant will provide an expanded stream buffer area of 2,718 square feet near the southwest corner of the development (buffer averaging). The Project is also providing 3 acres of afforestation, which is 0.16 acres (6,970 square feet) more than the 2.84 acres of afforestation and reforestation required under the Forest Conservation Law (enhanced forestation). The total amount of mitigation provided to compensate for

lost stream buffer function is approximately 9,678 square feet, or 0.22 acres. Mitigation is therefore being provided at a ratio of 2:1.

In addition to the stream buffer mitigation being provided, all of the forestation is within what are currently unforested areas within and adjacent to the stream buffers on the Site. The creation of forested stream buffers should significantly improve existing stream buffer function. Additional forested areas within stream buffers on the land being retained by the Academy of the Holy Cross are being placed into conservation easements as retained forest on the FFCP. In total, over 6.5 acres of conservation easements are being established within and adjacent to stream buffers on the combined 4910-4920 Strathmore Avenue/Holy Cross Academy properties.

Based on the mitigation provided for lost stream buffer function, the submitted Application is in conformance with the *Environmental Guidelines*.

Noise Guidelines

The Applicant's Noise Analysis shows maximum noise levels of approximately 69 dbA Ldn along the faces of the new single-family houses fronting Strathmore Avenue, and 68 dbA Ldn along the northern face of the residential care building. Indoor spaces must be reduced to 45 dBA and architectural materials will be used to achieve this requirement. As conditioned, certification of design and construction is required during the permitting process.

Most of the exterior open spaces on the Property will not be subjected to traffic noise impacts above 65 dbA Ldn. The exception is the open space area at the intersection of Strathmore Avenue and Street A. There is a desire to make this a publicly visible open space area. Noise attenuation features would be in conflict with visibility and negatively affect the aesthetics of the open space design. Therefore, the Applicant requested a waiver of the requirements of the Noise Guidelines under Section 2.2.2(2) of the *Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development*. The Planning Board hereby grants approval of this waiver request.

6. *The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

The Project will provide safe, efficient, and integrated on-street and structured parking to serve the land uses, will allow for adequate

circulation, will construct the required open spaces and recreational amenities, and will utilize the Site's existing grading to reduce the bulk of the building from the street view.

Roads

The Master Plan's transportation objectives include providing a safe, attractive, and efficient transportation system to serve the recommended land use patterns, meet the mobility needs of the elderly and mobility-challenged, and provide a bicycle and pedestrian network as part of the transportation system (page 33). The Project will realign the existing access road and add two new street connections. These additions help to create a network of interconnected streets that accommodate a range of users and various physical abilities.

Transportation

The Master Plan recommends that future development be focused on Metrorail (Metro) stops, new transit stations, and areas best served by transportation infrastructure, with an emphasis on housing. The Plan also encourages the location of elderly housing and elderly support services along designated bus routes or near Metrorail (page 244). The Project is located within close proximity to the Grosvenor-Strathmore Metrorail Station and there are existing bus route service and stops along the Site's Strathmore Avenue frontage, including a location at the entrance of the vacant St. Angela's Hall. New internal shortcuts to the Metro Station were evaluated by the Applicant but found infeasible due to ownership issues and environmental constraints. Therefore, the Project will provide sidewalks and buffered sidepath infrastructure for pedestrian, bicyclists, and other micro-mobility modes to safely access public transit services primarily by exiting the Site at Strathmore Avenue and then traversing Rockville Pike.

Transit

The Master Plan makes broad recommendations to encourage transit use, including major expansions to the public transportation system (page 2). The immediate area is well served by transit and the Subject Property is serviced by Ride On, with existing bus stops located along the Property's frontage with

Strathmore Avenue. The Property is also approximately 1/3-mile walking and bicycling distance of the Grosvenor-Strathmore Metrorail station.

Additionally, according to the 2013 *Countywide Transit Corridors Functional Master Plan*, the Rockville Pike (MD 355) and North Bethesda Transitway Bus Rapid Transit projects each have a station planned at the Grosvenor-Strathmore Metrorail station.

The redevelopment proposes enhancements to existing sidewalks, bicycle facilities, and pedestrian lighting along Strathmore Avenue that will support increased access to nearby existing transit service.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Site Plan substantially conforms with the major recommendations of the 1992 *North Bethesda/Garrett Park Master Plan and other county-wide policy documents such as the Countywide Bicycle Master Plan*, as discussed below.

a) Land Use

Land Use & Zoning

The Application satisfies Master Plan recommendations within the context of the Site by adding development near transit, improving transportation infrastructure for non-automobile modes, providing walkable blocks within the development, and using design best practices and construction materials to create a high-quality recognizable place that fits within the larger neighborhood.

The Master Plan includes recommendations specific to the Property which is listed as Parcel No. 14 (pages 80-81). The Plan identifies the 35+ acre tract for the Academy of the Holy Cross which includes the school buildings, athletic fields, and a former group home for retired nuns (St. Angela's Hall). Citing the students' use of nearby transit, the Plan "supports the continued existence of the Academy and the retirement home at this location and recommends that the existing R-60 zoning be confirmed" (Page 81).

Following the Plan's recommendation, the Application includes the retention of the Academy of the Holy Cross School alongside of the redevelopment.

However, with the closure of the St. Angela's Hall retirement home, this part of the recommendation can no longer be fully realized. To meet the new realities while also respecting the Plan's vision to capitalize on housing with adjacency to a transit node, the new housing includes townhouses and detached single-family units and elderly housing through a residential care facility.

The Master Plan also emphasizes other objectives for the Subject Property: "preserving green areas and institutional open space for environmental protection, wildlife sanctuary, recreation, and visual relief" (page 81). The Project addresses this environmental objective and others. Portions of the existing open lawn areas on the Site will be protected through Category I and Category II Conservation Easements with native plantings that can provide water quality protection, wildlife habitat, and visual relief from the surrounding development.

Density & Building Height

Per the approved Local Map Amendment (LMA) No. H-143, the Property is limited to a density of 0.75 FAR or 516,658 square feet of residential uses, whereas the Site Plan will accommodate the redevelopment with 0.70 FAR or 482,000 square feet of residential uses. While 0.25 FAR of commercial use is permitted under the CRNF zone, no commercial is included with this approval.

The heights of the detached residential units, townhouses, and residential care facility are within the 50-foot height limit established by the LMA and certified Floating Zone Plan and will not exceed the existing heights of any existing structure on the Subject Property or those on the Academy of Holy Cross property.

Housing

The Master Plan recommends the provision of adult day-care facilities; the location of elderly housing and elderly support services along bus routes; the provision of affordable elderly housing through the special exception process; and support for the consideration of land in public ownership for affordable elderly housing. With the closure of St. Angela's Hall retirement home and the need for elderly housing identified in the Master Plan, the Preliminary

Site brings forth residential uses that fill a significant gap in the community's existing housing stock.

Urban Form

The Master Plan emphasizes the design of existing and new streetscapes to encourage pedestrian usage, particularly along corridors that are within walking distance to transit and to address the lack of buffering adjacent to travel lanes for enhanced safety and comfort. Therefore, the Master Plan recommends the addition of street trees to create an appropriate buffer and the widening of sidewalks, and, where necessary, additional special design treatment. The Project includes upgrading the Strathmore Avenue frontage through the construction of the master-planned 10-foot-wide shared use path with a 6-foot-wide green buffer which will improve the pedestrian realm to reach various surrounding destinations, including Holy Cross School and the Garrett Park Middle School. New private internal streets will include on-street parking and street trees between the curb and sidewalk.

Community Facilities

The Master Plan recommends that safe pedestrian access is provided to all school facilities. The Project includes a shared use path that will be extended off-site and will assist in providing a walkable/bikeable facility that connects to abutting properties, including the Holy Cross School. This improvement will provide a complete link to Rockville Pike and to an existing bus stop on Strathmore Avenue. Additionally, the new sidewalks along Street A will facilitate pedestrian movements to the south to access the Academy of the Holy Cross School.

Open Space

The *North Bethesda/Garrett Park Master Plan* broadly recommends providing green spaces in appropriate locations. A significant element of this development is the public open space and common open space spread across the Site to create gathering options, as well as flexible open lawns for passive and active recreation for future residents and the greater communities. These spaces are designed in nodes along the primary access through the Property to be highly visible and accessible via pathways and crosswalks. These open spaces will be connected by an internal network of sidewalks and a natural

surface trail as well as sidewalks external to the Property that connect to surrounding neighborhood uses. A natural surface trail along the western portion of the Site creates a pedestrian connection from Strathmore Avenue to the larger neighborhood along the stream valley. This connectivity with green spaces is consistent with the Plan's vision.

b) *Environment*

The *North Bethesda/Garrett Park Master Plan* makes environmental recommendations to restore environmental functions in the Plan area as it undergoes redevelopment (Pages 4 and 247):

- Protect the woodlands through land use recommendation and development guidelines,
- Create a system of greenways,
- Adopt a "green corridors" policy for North Bethesda roadways,
- Focus development at transit stations to improve air quality, and
- Address existing stormwater management problems, particularly at the time of new development.

The Application meets the recommendations of the *North Bethesda/Garrett Park Master Plan* as well as the intent of the Forest Conservation law, and the Environmental Guidelines. The Project contemplates broad environmental sustainability improvements, including preserving natural resources, improving water and air quality, and reducing carbon emissions.

As shown on the Forest Conservation Plan, the Project follows the environmental regulations and guidelines for the protection of existing natural resources on the Site. While minimal forest will be removed and some specimen trees will be impacted, the Project will provide appropriate tree mitigation and satisfy afforestation and reforestation requirements. As a result, areas that are currently lawn will have some new tree cover.

Additionally, the Project follows the *Environmental Guidelines* as it relates to minor encroachments that are permitted into a stream valley buffer under unique circumstances for the construction of the natural surface trail and stormwater management.

To address stormwater management and to protect and improve water quality, the Project will minimize imperviousness by applying permeable pavers along Street C, using micro-bioretenion areas and other techniques to

assist with filtering and retaining water on-site and landscaping the redeveloped Site with native plants.

Overall, the Application is consistent with the *North Bethesda/Garrett Park Master Plan* and other applicable county plans, policies, and regulations.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

The Subject Property is located within the W-1 and S-1 water and sewer categories. The analysis for Preliminary Plan No. 120220160 confirmed that the Project will be served by adequate public facilities (APF), including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. Per the School Adequacy Test conducted during the Preliminary Plan, the estimated number of students generated do not exceed the adequacy ceilings identified for each school.

9. *The development is compatible with the character of the residential neighborhood in a Rural Residential or Residential zone.*

The Subject Property is not located in a Rural Residential or Residential zone.

10. *The development is compatible with existing and approved or pending adjacent development.*

The redevelopment of the Property into residential dwellings units and a group living facility is in substantial conformance with the recommendations of the 1992 *North Bethesda/Garrett Park Master Plan* as well as compatible with the adjacent and confronting uses and pending developments.

The Subject Property is close to institutional and residential uses primarily zoned R-60, including the Holy Cross Church and School to the east, the Academy of the Holy Cross to the south, and Symphony Park and Garrett Park residences to the west and north. Consistent with the approved Floating Zone Plan, the Site Plan provides compatibility with the existing neighboring properties and roads. The Project includes single-family detached residences along Strathmore Avenue to reflect the confronting single-family uses and locates the new townhomes in the interior of the Site. The Application does not

include any commercial uses⁷, which will preserve the residential character of the neighborhood. These detached residential units also avoid front loaded driveways onto Strathmore Avenue. The layout of the townhouses establishes a compatible relationship with the abutting townhouses and creates uniformity. The existing grassed median along Strathmore Avenue will remain to provide buffer from the new development as well as maintain the status quo of the streetscape that existing residents enjoy. Additionally, while introducing some contemporary themes, the architecture of the new buildings fronting on Strathmore Avenue use building materials similar to others in the area to create a congruent environment.

The Project will separate the detached and attached residential units on the west of the Site from the residential care facility on the east of the Site by Street A. The residential uses to the south will be separated from the Academy of the Holy Cross with landscaping and the natural surface trail. Significant buffering will be provided between the new uses and those to the west, south and east, further ensuring compatibility between the uses. The Project conforms with the maximum 50-foot building height to establish a compatible relationship with the nearby existing structures. The residential care facility also takes advantage of the Subject Property's gently sloping grade to reduce bulk and massing from Strathmore Avenue and is compatible with the long-standing institutional uses to the south and east. Additionally, the surface parking spaces for the residential care facility are set back notably from the Strathmore Avenue right-of-way, partially hidden, and located behind the building front line as required. Compatibility with existing abutting land uses is also achieved via multi-modal connections between abutting parcels with shared Strathmore Avenue frontage. Off-site improvements such as the widening of the existing pedestrian bridge to the west and the extension of the sidepath to the east create a continuous facility for non-automobile usage.

The Project is compatible with approved adjacent development and pending developments. Nearby pending development includes the Strathmore Square Redevelopment to the southwest of the Subject Property. The Strathmore Square Development is located directly adjacent to the Grosvenor-Strathmore Metro Station and is bordered on the north and east by Tuckerman Lane, just east of the intersection of Tuckerman Lane and Rockville Pike. Strathmore Square will be redeveloped as a predominately residential, mixed-use center and is envisioned to be a transit-oriented, walkable, and dynamic arts and cultural community that will be well connected through streets, blocks, and open spaces to surrounding neighborhoods. Strathmore Square incorporates many efficient

⁷ The approved Floating Zone Plan includes a binding element that ensures that no principal commercial uses will be developed on the Property, except permitted accessory uses associated with the residential care facility.

design features that are similar for the Subject Property and both developments will have improved connectivity via pathways and sidewalks. Therefore, the Planning Board finds that the Site Plan Application is compatible with existing and approved or pending adjacent development.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 05 2023 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Branson, seconded by Commissioner Presley, with a vote of 5-0-; Chair Zyontz, Vice Chair Presley, and Commissioners Branson, Hill, and Piñero, voting in favor of the motion, at its regular meeting held on Thursday, December 22, 2022, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
Montgomery County Planning Board



ATTACHMENT C

Marc Elrich
County Executive

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Scott Bruton
Director

November 20, 2023

Emily Tettelbaum
Montgomery County Planning Department
2425 Reedie Drive, 14th Floor
Wheaton, MD 20902

Re: 4910/4920 Strathmore
Preliminary Plan # 12022016A

Dear Emily:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the above referenced plan and recommends Approval for up to one-hundred-twenty-five (125) units with 15% MPDUs (up to nineteen (19) MPDUs) in North Bethesda, Maryland.

An Agreement to Build must be submitted to, reviewed, and executed by DHCA before building permits are obtained from the Department of Permitting Services (DPS). The final MPDU layouts will need to be approved by DHCA at the MPDU Agreement to Build stage.

Sincerely,

Adrian Hopson, Planning Specialist III
Affordable Housing Programs Section

Affordable Housing

Division of Housing
Landlord Tenant Affairs

Multifamily Housing

1401 Rockville Pike, 4th Floor • Rockville, Maryland 20852 • 240-777-0311 • 240-777-3691 FAX • www.montgomerycountymd.gov/dhca

montgomerycountymd.gov/311



240-773-3556 TTY



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Marc Elrich
County Executive

Scott Bruton
Director

November 20, 2023

Emily Tettelbaum
Montgomery County Planning Department
2425 Reedie Drive, 14th Floor
Wheaton, MD 20902

Re: 4910/4920 Strathmore
Site Plan # 82022022A

Dear Emily:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the above referenced plan and recommends Approval for up to one-hundred-twenty-five (125) units with 15% MPDUs (up to nineteen (19) MPDUs) in North Bethesda, Maryland.

An Agreement to Build must be submitted to, reviewed, and executed by DHCA before building permits are obtained from the Department of Permitting Services (DPS). The final MPDU layouts will need to be approved by DHCA at the MPDU Agreement to Build stage.

Sincerely,

Adrian Hopson, Planning Specialist III
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OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

Christopher R. Conklin
Director

November 28, 2023

Ms. Emily Tettelbaum, Planner III
Mid-County Planning Division
The Maryland-National Capital
Park & Planning Commission
2425 Reedie Drive
Wheaton, MD 20902

RE: Preliminary Plan No. 12022016A
4910/4920 Strathmore Avenue
Preliminary Plan Letter

Dear Ms. Graham:

We have completed our review of the preliminary uploaded to eplans on October 25, 2023. A previous version of the plan was reviewed by the Development Review Committee at its October 10, 2023 meeting. All previous comments in our letter dated December 5, 2022 remain applicable with the addition of the following:

1. All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services (DPS) in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.
2. The Applicant shall be responsible for the installation of a bus shelter along Strathmore Avenue (MD 547) at the designated bus stop located west of Street A. At or before the MDOT SHA permit stage, the final location of the bus shelter and improvement details shall be coordinated with Mr. Wayne Miller of our Division of Transit Services. Mr. Miller may be contacted at 240 777-5836 or at Wayne.Miller2@montgomerycountymd.gov.

Traffic Impact Study

3. This revised study, dated October 20, 2023, was prepared by Gorove Slade Transportation Planners and Engineers. The proposed amendment modifies the previously reviewed development to remove the residential care facility land use and adds 17 single family detached units and 108 townhomes.

The Applicant states the findings of this revision are as follows:

- a. The proposed project generates fewer trips than the previously approved development.
 - b. A traffic signal remains warranted as traffic volumes with the revised project meet Warrants 2 and 3.
 - c. The proposed off-site improvements satisfy off-site multimodal adequacy requirements for the updated project.
 - d. A modification to the off-site improvements listed in the conditions of approval of the approved Preliminary Plan and Site Plan is needed to reflect the reduced Proportionality Guide.
4. LATR Proportionality Guide: The revised proposed project is required to address off-site adequacy deficiencies with multimodal facility improvements that total \$1,062,795 (\$253,095 less than the Proportionality Guide for the approved development). The off-site improvements cost calculation based on the LATR Proportionality Guide is presented in Table 9 (Pg. 9). and Table 10 (Pg. 10).
 5. Off-Site Improvements:
 - a. In accordance with the LATR Proportionality Guide for the updated project, the off-site improvements with their associated estimated cost are shown in Table 11 (PG. 12).
 - b. The Applicant continues to work with County Staff and other stakeholders to secure the right-of-way for the off-site sidepath extension to the east of the site. Per the conditions of approval, if the right-of-way cannot be secured by MCDOT within 12 months, the Applicant will pay the County the cost of the improvement (excluding right-of-way acquisition costs).
 - c. The bridge widening to the west along the south side of Strathmore Avenue will not be implemented as the proposed project generates fewer person and vehicle trips and is therefore subject to reduced study area requirements and a reduced Proportionality Guide.
 - d. A mitigation payment of \$97,895, which includes a \$16,943 credit for MPDUs, will be submitted to the County. This payment reflects the difference between the LATR Proportionality Guide and eligible improvements as detailed in Table 11 (Pg. 12).

Ms. Emily Tettelbaum
Preliminary Plan No. 12022016A
November 28, 2023
Page 3

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me for this project at brenda.pardo@montgomerycountymd.gov or at (240) 777-7170.

Sincerely,

Brenda M. Pardo

Brenda M. Pardo, Engineer III
Development Review Team
Office to Transportation Policy

[SharePoint\teams\DOT\Director's Office\Development Review\Brenda\Preliminary Plan\PP12022016A_4910-4920_Strathmore Ave\Letters\12022016A-4910-490Strathmore Ave-DOT Preliminary Plan_11.28.23](#)

cc: Correspondence folder FY 2023

cc-e: Ian Duke	Vika Maryland, LLC
Mark Terry	MCDOT DTEO
Atiq Panjshiri	MCDPS RWPR
Sam Farhadi	MCDPS RWPR
Rebecca Torma	MCDOT OTP

82022022A 4910/4920 Strathmore

Contact: Sam Farhadi at 240 777-6333

We have reviewed site plan file:

“07-RSITE-82022022A-003.pdf V2” uploaded on/ dated **“9/17/2023”**.

As there seems to be minimal impact to the County ROW, we do not have any comment at this point.



DEPARTMENT OF PERMITTING SERVICES

Marc Elrich
County Executive

Mitra Pedoeem
Director

November 17, 2023

Mr. Jason Evans
Vika, Inc.
20251 Century Boulevard, Suite 400
Germantown, MD 20874

Re: **REVISED COMBINED STORMWATER
MANAGEMENT CONCEPT/SITE
DEVELOPMENT REVISION STORMWATER
MANAGEMENT PLAN** for
4910 STRATHMORE AVE KENSINGTON
Preliminary Plan #: 1200220160
SM File #: 288285
Tract Size/Zone: 15.36 ac
Total Concept Area: 13.57 ac
Parcel(s): A
Watershed: Rock Creek

Dear Mr. Evans:

Based on a review by the Department of Permitting Services Review Staff, the revised stormwater management concept for the above-mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via microbioretention practices, Enhanced microbioretention practices, planter boxes, and a Modular Wetland System.

The following items will need to be addressed during the detailed sediment control/stormwater management plan stage:

1. Administrative approval of the stormwater management plan for the purpose of securing storm drain, water, sewer, or other utilities will not be considered.
2. Due to the proximity of stormwater management practices to proposed buildings, foundation to grade permits may not be issued for this project as a part of a rough grading sediment control permit.
3. During the detailed SCP review you will need to show easements for SWM. These easements will include the first run of the storm drain out of the SWM practice to the first manhole in the storm drain system.
4. Surface overflow from one stormwater management practice may not be allowed to connect to the underdrain of another practice. Unfiltered surface water may enter a perforated underdrain system.
5. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
6. An engineered sediment control plan must be submitted for this development.
7. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.



2425 Reedie Drive, 7th Floor, Wheaton, Maryland 20902 | 240-777-0311
www.montgomerycountymd.gov/permittingservices

Mr. Jason Evans
November 17, 2023
Page 2 of 2

8. Landscaping in areas located within the stormwater management easement which are shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purposes only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Montgomery County Department of Permitting Services, Water Resources Section.
9. This approval supersedes previous approval letter dated December 2, 2022.
This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Bill Musico at 240-777-6340.

Sincerely,

Mark Etheridge
Mark Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: WJM

cc: N. Braunstein
SM File # 288285

ESD: Required/Provided 43,119 cu.fl./ 43,126 cu.ft.
PE: Target/Achieved: 1.80 inches/ 1.80 inches
STRUCTURAL: 0.00 cf
WAIVED: 0.00 cf.



**Department of Permitting Services
Fire Department Access and Water Supply Comments**

DATE: 02-Jan-24
TO: Ian Duke
VIKA, Inc
FROM: Marie LaBaw
RE: St Angela Hall (4910/4920 Strathmore)
82022022A

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **02-Jan-24** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

VIKA Maryland, LLC
20251 Century Blvd.
Suite 400
Germantown, MD 20874
301.916.4100
vika.com

FIRE CODE ENFORCEMENT

Fire Department Access Review

Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors or failure to clearly indicate conditions on this plan. Correction of such unsatisfactory layout to afford required access will be required if found upon inspection after installation

BY: SAC FM: 43 DATE: 1/2/2024

January 02, 2024

Ms. Marie LaBaw, PhD, PE
Department of Permitting Services
2425 Reddie Drive, 7th Floor
Wheaton, MD 20902

Re: **4910/4920 Strathmore
Site Plan 82022022A
Performance Based Code Design Justification
VIKA Project VM50370H**

Dear Ms. LaBaw,

On behalf of our client, SAH Homes LLC, (the "Applicant"), we submit for your review and approval of the enclosed Fire Apparatus Access (FAA) Plan including a performance-based design relating to certain aspects of fire apparatus access for the proposed development at 4910/4920 Strathmore Avenue.

1. The proposed conditions providing Fire Access on two 'Mews' dimensionally meet the requirements and specifications required. While the primary function of these areas will be pedestrian access, these areas have been designed to be kept clear of obstructions, including plant materials, benches, trash containers or any other furnishings that would prevent vehicular fire department access from occurring.
2. The roundabout on the private roadway entering the Academy of the Holy Cross, south of the new development has been designed to meet radial dimensions to provide physical fire truck maneuverability. To encourage one way movement for every day vehicular traffic flow, the width of pavement has been reduced to 12' wide, while maintaining the minimum 38' radius requirement for the reduced travel path. There are to be no impediments located in the roundabout that would impair movement or obstruct visibility.

We have enclosed a plan which illustrates the proposal as described above for your review. Please do not hesitate to contact me if you have any questions.



I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND.
ENGINEER'S NAME: JASON A. EVANS, P.E.
LICENSE No.: 39885
EXPIRATION DATE: JANUARY 16, 2025

Our Site Set on the Future.





MONTGOMERY COUNTY FIRE AND RESCUE SERVICE

Date: 2023-1115

Fire Lane Establishment Order

Pursuant to Section 22-33, Montgomery County Code, 1971, as amended, you are hereby notified that a Fire Lane has been established as described in this order. You are hereby ordered to post fire lane signs and paint curbs/pavement as identified below. When signs or paint work has been completed, this order will authorize the enforcement of this Fire Lane by appropriate police or fire officials. Compliance with this order must be achieved within 30 days of receipt when any of the following conditions are met:

- One or more structures addressed from the subject road are occupied;
- The road or accessway is available for use and at least one building permit for an address on the subject road has been issued; or
- The road or accessway is necessary fire department access.

LOCATION: 4910/4920 Strathmore along the entirety of Chamber Street, Academy Park Drive up to the entrance of the school, and Dulcet Drive East and West (with exception to parallel parking along these streets).

Delineate all areas where indicated by signs and/or paint.

2024-0102: Street names to be finalized/approved and Fire Lane Order to be resubmitted to DPS prior to permit to agree with all approvals.

SIGNS -- (See attached diagram for location of sign placement)



(Red letters on white background)

Signs must be posted so that it is not possible to park a vehicle without being in sight of a sign. Signs may be no further apart than 100 feet.

PAINT -- (See attached diagram when painting is required)

Paint must be traffic yellow with lines of Sufficient width to be readily identifiable/readable by motor vehicle operators.

Signature of Order Writer/I.D. #

Cc: Fire Code Enforcement Section
Attachment: Fire Lane Diagram

2024-0102: Street names to be finalized/approved and Fire Lane Order to be resubmitted to DPS prior to permit to agree with all approvals.

FIRE LANE ESTABLISHMENT FORM

BUILDING OR SUBDIVISION NAME: 4910/4920 Strathmore

FIRE LANE LOCATION/ADDRESS: 4910/4920 Strathmore along the entirety of Chamber Street, Academy Park Drive, and Dulcet Drive East (with exception to parallel parking along these streets).

See attached drawing for designated fire lanes:

I have received the drawing and instructions for installing the designated fire lanes on property not owned by state or local government.

NAME AND TITLE OF PROPERTY REPRESENTATIVE

NAME: Adam Hayes TITLE: Vice President of Engineering

SIGNATURE: 

PHONE: 301-634-8653 DATE: November 16, 2023

ADDRESS (where processed order will be mailed):

4800 Hampden Lane, Suite 300 | Bethesda, MD 20814

The designated fire lanes are the minimum necessary for fire/rescue access and are in accordance with Section 22-33 of the Fire Safety Code.

NAME: _____ SIGNATURE: _____

STA.#: _____ I.D.#: _____ DATE: _____

Comments: _____

Fire Lane Installed Per Order

NAME: _____ DATE: _____

4910/4920 Strathmore
SAH Homes Associates LLC, c/o EYA Development LLC
FIRE LANE ORDER 2022-1116

Parking is shown on Sheet FIRE-1 of the Fire Access Plan.

Limits of "No Parking Any Time" Regulations on private roadways in the Project are (with exception to parallel parking as indicated along the following streets):

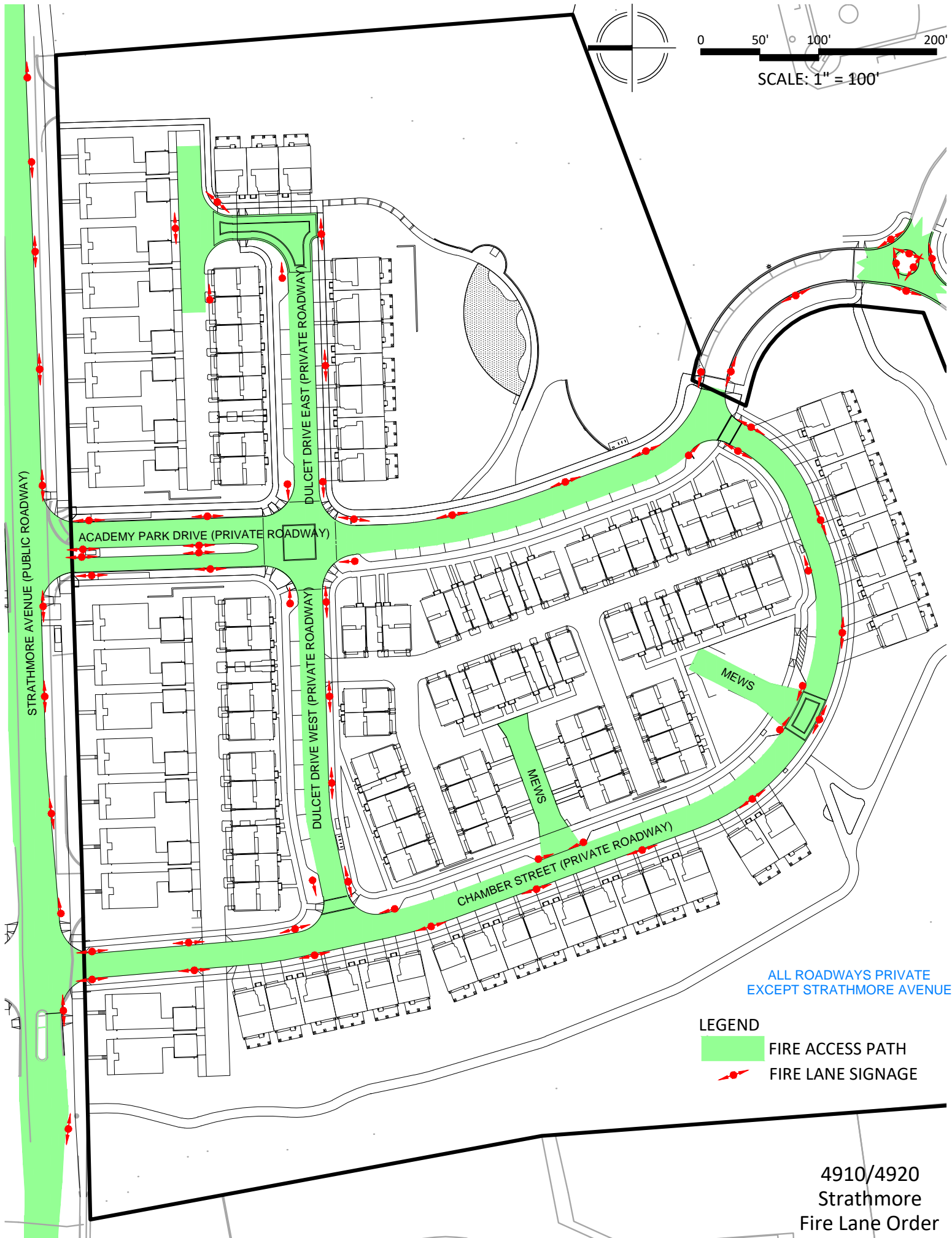
1. Along the entirety of Chamber Street;
2. Academy Park Drive; and
3. Along both sides of Dulcet Drive East & West.

2024-0102: Street names to be finalized/approved and Fire Lane Order to be resubmitted to DPS prior to permit to agree with all approvals.



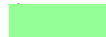

0 50' 100' 200'

SCALE: 1" = 100'



ALL ROADWAYS PRIVATE EXCEPT STRATHMORE AVENUE

LEGEND

-  FIRE ACCESS PATH
-  FIRE LANE SIGNAGE

4910/4920
Strathmore
Fire Lane Order